

# **EXHIBIT D**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
CIVIL ACTION NO. 08-CV-00520 (MLC)

ROBERT MCGEE and TIFFANY MCGEE, his  
wife,

Plaintiffs,

vs.

STIHL INCORPORATED; STIHL GROUP, ANDREAS  
STIHL, AG & CO., KG; STIHL SAW COMPANY;  
NORTHEAST STIHL; OLDHAM COMPANY; BLACK &  
DECKER CORPORATION; SANDER POWER  
EQUIPMENT COMPANY, JOHN DOE I (being a  
fictitious name); JOHN DOE II (being a  
fictitious name); JOHN DOE III (being a  
fictitious name); JOHN DOE IV (being a  
fictitious name,

Defendants.

-----  
August 23, 2010  
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Oral sworn deposition of NEAL A.  
GROWNEY, 265 Steves Lane, Franklin Lakes, New  
Jersey, was taken at the law office of NAGEL RICE,  
LLP, 103 Eisenhower Parkway, Roseland, New Jersey  
07068-1031, before Jean B. Delaney, Certified  
Shorthand Reporter and Notary Public of the State of  
New Jersey, on the above date, commencing at 10:19  
a.m. there being present:

NAGEL RICE, LLP  
BY: BARRY M. PACKIN, ESQUIRE  
Attorneys for Plaintiffs

D E G N A N & B A T E M A N, I N C.

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MCGUIRE WOODS, LLP, ESQUIRES  
BY: JAMES H. WALSH, ESQUIRE  
Attorneys for Defendant, Stihl  
Incorporated; Stihl Group; Andreas Stihl  
AG & CO., KL; Stihl Saw Company; Northeast  
Stihl

RUDOLPH & KAYAL, ESQUIRES  
BY: STEPHEN A. RUDOLPH, ESQUIRE  
Attorneys for Defendant, Stihl  
Incorporated; Stihl Group; Andreas Stihl  
AG & CO., KL; Stihl Saw Company; Northeast  
Stihl  
MCCARTER & ENGLISH, LLP  
BY: DAVID KOTT, ESQUIRE  
Attorneys for Defendants, Oldham Company;  
Black & Decker Corporation

DEGNAN & BATEMAN, INC.

1	Growney-66	Makita catalog	126
2	Growney-67	Steel Demon catalog	126
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(By agreement of counsel, the signing,  
sealing and certification of the deposition  
were waived, and all objections except as to  
the form of the question were reserved to the  
time of trial.)

# I N D E X

Witness	Page
NEAL A. GROWNEY	
By Mr. Kott	5 212 235
By Mr. Walsh	96 236
By Mr. Packin	225

# E X H I B I T S

Marked for I.D.	Page
Growney-60 Notebook of articles from Mr. Growney	64
Growney-61 ANSI Z535.4-2002	65
Growney-62 Saw blade and hand saw manufacturing: 2002 booklet	121
Growney-63 Grizzly catalog	126
Growney-64 Milwaukee catalog	126
Growney-65 Diamond Products catalog	126

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VIDEO SPECIALIST: The time is now  
10:19 and we're on the video record. Will the court  
reporter please swear in the witness.

NEAL A. GROWNEY, having been duly  
sworn, was examined and testified as follows:

BY MR. KOTT:

Q Mr. Growney, when we -- have you  
reviewed your transcripts of your first or second  
deposition in this case?

A I started to. I didn't finish  
completely.

Q Did you -- did you read any of your  
second deposition?

A I may have.

Q Well, do you recollect whether you did?  
A I -- I -- I know I did run through part  
of it.

Q Okay. Do you recollect in your second  
deposition, and I'm going to paraphrase, I had asked  
you about what qualifications and educational  
experience you had since your last deposition, the  
Stout case, and I asked you some questions, and you  
referred to having read some articles on warnings.

Does that sound familiar?

A Um. In between the two cases, are you

(Pages 2 to 5)

2

<p style="text-align: right;">Page 6</p> <p>1 talking about that, or --</p> <p>2 Q Yes. Yeah.</p> <p>3 A Yeah, I read articles on warnings all</p> <p>4 the time.</p> <p>5 Q Right.</p> <p>6 A Anything relevant to it. I -- I have</p> <p>7 read quite a number of articles.</p> <p>8 Q And do you remember in your last</p> <p>9 deposition in this case, I asked you to bring the</p> <p>10 articles you had read, which included an article by</p> <p>11 Timothy Rhoades, with you to this deposition?</p> <p>12 A I thought I was -- that was -- that you</p> <p>13 were going to provide that -- that written request.</p> <p>14 Q Yes. And are you aware that I did make</p> <p>15 a written request of that to Mr. Packin?</p> <p>16 A No. I'm not, but I happen to have</p> <p>17 Rhoades' articles.</p> <p>18 Q Okay. And do you have the other</p> <p>19 articles which you had reviewed since your last</p> <p>20 deposition in Stout?</p> <p>21 A I am uncertain whether I do or not.</p> <p>22 Q Okay. Could you pull out the Rhoades'</p> <p>23 articles that you do have?</p> <p>24 A Sure. These are some of them.</p> <p>25 Q When you say these are some of them,</p>	<p style="text-align: right;">Page 8</p> <p>1 Growney-39 from your June 15th deposition in this</p> <p>2 case.</p> <p>3 A Perhaps you could provide me with one,</p> <p>4 somebody.</p> <p>5 MR. KOTT: Steve, do you have a copy?</p> <p>6 MR. RUDOLPH: This is what Barry gave</p> <p>7 me. Is it in here? Is 39 in here?</p> <p>8 MR. PACKIN: If it was one that came</p> <p>9 from our materials, it would be.</p> <p>10 MR. RUDOLPH: What is it, David?</p> <p>11 MR. KOTT: It's his handwritten notes.</p> <p>12 And it would be with Barry's July 21, 2010 letter.</p> <p>13 MR. RUDOLPH: What's the exhibit</p> <p>14 number?</p> <p>15 MR. KOTT: 39. It is -- it is -- go --</p> <p>16 after that.</p> <p>17 MR. RUDOLPH: Seven -- 39. One page</p> <p>18 in.</p> <p>19 MR. KOTT: Yeah. Would you hand that</p> <p>20 to the witness?</p> <p>21 THE WITNESS: Thank you.</p> <p>22 BY MR. KOTT:</p> <p>23 Q Sir, Exhibit-39, is that your</p> <p>24 handwriting?</p> <p>25 A Yes, it is. It looks like it, right.</p>
<p style="text-align: right;">Page 7</p> <p>1 did you have others you did not bring with you?</p> <p>2 Others, I'm referring to others written by Rhoades.</p> <p>3 A I -- I think they are all -- I have had</p> <p>4 them in different locations in the -- in my files,</p> <p>5 and so it's possible I might have duplications still</p> <p>6 in the file.</p> <p>7 Q Okay. I don't care about duplications,</p> <p>8 but as far as any articles you've read by Rhoades,</p> <p>9 either authored by him or coauthored, are they here</p> <p>10 in the black notebook you provided to Mr. Packin?</p> <p>11 A I think so.</p> <p>12 Q Thank you.</p> <p>13 MR. PACKIN: Just for the record, it</p> <p>14 appears there's also some that have nothing to do</p> <p>15 with Mr. Rhoades, but rather than pull it apart,</p> <p>16 they are all in here.</p> <p>17 MR. KOTT: Yeah. I'm going to identify</p> <p>18 them a little later.</p> <p>19 MR. PACKIN: Do you want this? Do you</p> <p>20 want it marked?</p> <p>21 MR. KOTT: Yes, I do.</p> <p>22 BY MR. KOTT:</p> <p>23 Q Mr. Growney, I want to call your</p> <p>24 attention to your Exhibit-39.</p> <p>25 Do you have a copy of that? That is</p>	<p style="text-align: right;">Page 9</p> <p>1 Q And what is this document?</p> <p>2 A This looks like my notes when I read</p> <p>3 Rhoades' report.</p> <p>4 Q Okay. About a halfway down you got the</p> <p>5 words categorical prohibition. Do you see that?</p> <p>6 A Yes.</p> <p>7 Q Can you just read what you wrote there?</p> <p>8 A Categorical prohibition. Stihl makes a</p> <p>9 categorical prohibition against cutting materials</p> <p>10 other than wood with their chainsaws even though the</p> <p>11 ANSI standard accommodates that practice.</p> <p>12 Q And how is that -- withdrawn.</p> <p>13 And I'm not being pejorative when I ask you</p> <p>14 this. What does that have to do with this case?</p> <p>15 A Well, it makes -- it looks like there</p> <p>16 is a 17 out in the column. And -- and it must refer</p> <p>17 to item number 17 or paragraph 17 in Rhoades'</p> <p>18 report.</p> <p>19 Q Okay. Where does Stihl make that</p> <p>20 categorical prohibition? Is that -- I'm going to</p> <p>21 ask you, is that in the Stihl owner's manual, on the</p> <p>22 product itself, somewhere else?</p> <p>23 A At this -- at this point, I can't tell</p> <p>24 you. It -- it -- Stihl has a safety book related to</p> <p>25 chainsaws. I'm not sure. But -- but this is</p>

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1 related to Rhoades' report, so it may be something  
2 that Rhoades said.

3 Q Okay. All right. Does Stihl, in the  
4 owner's manual in this case, the one for the cut-off  
5 saw we are talking about, does Stihl have some  
6 things that the saw shouldn't be used for? For  
7 instance, shouldn't be used to cut wood?

8 A Oh, yes. Right.

9 Q And is there an instruction or a  
10 warning in the Stihl owner's manual that you should  
11 not use the type of Oldham blade that was being used  
12 at the time of the accident on the Stihl cut-off  
13 machine?

14 MR. PACKIN: Object to the form.

15 You can answer.

16 THE WITNESS: Yes.

17 BY MR. KOTT:

18 Q Okay. And is there also a pictorial in  
19 the Stihl manual to that effect?

20 A Yes.

21 Q Can you describe generally, with words,  
22 the -- the pictorial?

23 A I believe it has a -- the international  
24 prohibition symbol, which is the circle with the  
25 diagonal slash imposed over a blade, the -- the --

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1 the out -- the outline of a blade.

2 Q Okay. And is it an outline of what you  
3 interpreted to be a wood-cutting blade?

4 A That I would interpret, yeah. Yeah.

5 Q Like the Oldham blade?

6 A Yes.

7 Q Okay. So would it be fair to say that  
8 if Mr. McGee had read the manual in this case, and  
9 I'm referring to the Stihl manual, that he would  
10 have learned that it was unsafe to use the  
11 Oldham-type blade on this cut-off machine?

12 MR. PACKIN: I object to form.

13 You can answer.

14 THE WITNESS: He -- if he had read it,  
15 he would have learned it, but he wouldn't -- not  
16 necessarily retained the knowledge of it. I mean,  
17 I've read the entire manual, and as time goes on, I  
18 lose recall of many, many things.

19 BY MR. KOTT:

20 Q Okay. But, when he read it, at the  
21 time he read it, he would have been informed that it  
22 was unsafe to use this type of Oldham blade on the  
23 Stihl cut-off machine; is that true?

24 MR. PACKIN: I object to the form.

25 THE WITNESS: Yes. Yes.

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1 BY MR. KOTT:

2 Q Have you done any testing of Mr. McGee  
3 to determine his memory; that is, how long he would  
4 retain something that he has read?

5 MR. PACKIN: I object to the form.

6 THE WITNESS: No. No. I haven't  
7 tested McGee.

8 BY MR. KOTT:

9 Q Would you agree that how long somebody  
10 recalls something they read is individual to the  
11 person? What I mean by that is, it might be  
12 different from one person to the next.

13 A I would grant that possibility, yes.

14 Q Now, further down on Exhibit-39 you  
15 state: It begins, Rhoades would like. Do you see  
16 that?

17 A Yes.

18 Q Would you read just what you wrote in  
19 that paragraph?

20 A Rhoades would like a lawyer to  
21 accompany laborers in the field so they can  
22 interpret Stihl's warnings for the laborers.  
23 Rhoades unrealistic.

24 Q And what did you mean by that?

25 A I would have to see Rhoades' report,

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1 but, you know, to -- to refresh my memory.

2 Q Well, if I represent to you that  
3 Dr. Rhoades was an expert for my client, Oldham,  
4 rather than for Stihl, would that affect what you  
5 mean by that?

6 A I'm referring to Rhoades.

7 Q Okay.

8 A I don't care who he -- who he is an  
9 expert for.

10 Q Okay. And then the last line at the  
11 bottom of Growney-39, you've got 12 point equals.  
12 Will you read that, please?

13 A 12 point equals. 12 times .013837,  
14 approximately .166. Approximately 1/6th of an inch.

15 Q And what does that refer to? Can you  
16 put in lay terms what you are doing there?

17 A Yeah. I was taking twelve point type  
18 and converting it into inches, the height.

19 Q I'm sorry. Why were you taking twelve  
20 point type?

21 A At that moment, I don't know. It may  
22 have been because I was considering what -- I -- I  
23 don't remember exactly at this point.

24 Q Okay. Did you, in your work in either  
25 this case or in the Stout case, photograph some

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1 cut-off machines that were manufactured by people  
2 other than Stihl?

3 A I don't recall photographing any other  
4 manufacturers. I've looked at a number of catalogs,  
5 and pictures, and such. But I don't recall  
6 photographing, me, myself photographing.

7 Q Do you recollect ever sending to  
8 Dr. Kalsher, photos or pictures of cut-off machines  
9 manufactured by companies other than Stihl?

10 A That's possible. I don't recollect at  
11 this point.

12 Q Okay. I'm going to show you  
13 photographs that were marked as Kalsher-4 through  
14 Kalsher-10 at the May 11, 2010 deposition of  
15 Dr. Kalsher, and I will represent to you that he  
16 testified in his deposition that he received these  
17 photos from you.

18 And let me just have you take a look at them  
19 and then I will ask you the questions about them.

20 A The ring saw. Yeah, I probably sent  
21 them to him.

22 Q Okay. While you were looking through  
23 those, I think you said, but I didn't hear, a ring  
24 saw. Is that what you said?

25 A Yes.

Page 15

1 Q What were you referring to?

2 A One of the photographs, exhibit  
3 kalsher-7, is a Partner K90 ring saw.

4 Q What is a ring saw?

5 A Well, it -- it has a blade that is --  
6 has a very, very large diameter. And, actually,  
7 that is taking my -- one of my design alternatives  
8 and carrying it to its logical extreme.

9 MR. PACKIN: He just wants to know what  
10 a ring saw is.

11 THE WITNESS: Okay. I'm sorry.

12 A ring saw is one of these demo saws or  
13 concrete cut-off saws whose blade is -- is shaped in  
14 a ring. It has a very large diameter.

15 BY MR. KOTT:

16 Q Okay. And what is the intended or safe  
17 intended cutting attachment? Is that a wood-cutting  
18 blade for a ring saw or is it an abrasive blade?

19 MR. PACKIN: I object to form.

20 You can answer.

21 THE WITNESS: The intended one? Is  
22 that what you're asking?

23 BY MR. KOTT:

24 Q Yes, yes.

25 A The intended one is an abrasive blade.

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1 Q Is it safe on the ring saw, the Partner  
2 ring saw there, to use a wood-cutting blade such as  
3 the oldham blade?

4 A The oldham blade, would be impossible  
5 to install the oldham blade on this ring saw.

6 Q And why would that be?

7 A The arbor is too big.

8 Q Okay. Could you install any kind of  
9 wood-cutting blade that was available in the  
10 marketplace on that ring saw?

11 A No. Absolutely not.

12 Q Okay. When you started to give an  
13 answer and Mr. Packin interrupted, you were -- about  
14 the ring saw had something to do with one of your  
15 alternative designs, was that something to do with  
16 Stihl as opposed to Oldham?

17 A Yes.

18 Q Okay. I don't have any other questions  
19 about that.

20 Have you ever used any kind of 14-inch cutting  
21 attachment, saw blade, abrasive, anything of that  
22 nature?

23 A On what?

24 Q On any kind of machine.

25 A Yes.

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1 Q Okay. Have you ever used any 14-inch  
2 wood-cutting blade?

3 A Yes.

4 Q On what kind of machines?

5 A I believe a table saw.

6 Q Any others?

7 A May have been a radial arm saw. I  
8 can't remember if that was 14 or 16.

9 Q Have you had any other cases that  
10 involved wood-cutting blades that are 12-inches or  
11 larger besides this case and Stout?

12 A Yes.

13 Q And what -- what are those cases?

14 A Table saws, radial arm saws, miter  
15 saws.

16 Q And were those cases that involved  
17 primarily blade contact?

18 A Yes. If I can remember clearly, yes.

19 Q Did any of them involve --

20 A No, well, one of them --

21 Q You said primarily.

22 A Yeah. Primarily.

23 Q Okay. Did any of them involve other  
24 accident modes, M-O-D-E-S, besides blade contact?

25 A Yes.



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1 Q what did they involve?  
 2 A If I can recall clearly, kickback of  
 3 material.  
 4 Q With the work piece or the material  
 5 striking the operator?  
 6 A Yes.  
 7 Q Any other accident modes?  
 8 A Nothing I can recall at this point.  
 9 Q And in those cases were your -- did  
 10 your opinions focus on whether or not the machine  
 11 was defective as opposed to whether or not the blade  
 12 was defective?  
 13 A Yes. The focus was the machine's  
 14 design.  
 15 Q Okay. Have you had any other cases in  
 16 which a 12-inch saw blade or larger was on the  
 17 machine which it was not intended to be placed on,  
 18 besides this case and Stout?  
 19 A No.  
 20 Q You had told me you had used, I think,  
 21 14 and maybe 16-inch saw blades. was that at work  
 22 or around the house?  
 23 A At work, or work-related.  
 24 Q Okay. On the photos, going back to  
 25 Exhibits Kalsher-4 through 10, what brand is

Page 20

1 say something about the next one, Kalsher-6.  
 2 First tell us what's depicted on Kalsher-6.  
 3 A Kalsher-6 isn't blown up so big. I  
 4 can't read the brand name. But that has a Makita  
 5 style blade guard. It's possible it could be a  
 6 private label made by Makita. I don't know.  
 7 Q Referring to Kalsher-6, are you able to  
 8 say that it is probably --  
 9 A Oh, I'm sorry. I see -- I read it  
 10 right here. It's -- it is a Hilti. It is a Hilti  
 11 brand.  
 12 Q H-I-L-T-E?  
 13 A H-I-L-T-I.  
 14 Q Okay. And it's a Hilti  
 15 gasoline-powered cut-off saw?  
 16 A Yes, it is.  
 17 Q And what is -- what model?  
 18 A I can't read the model.  
 19 Q Okay. The next one. That's 7 that we  
 20 discussed.  
 21 A Kalsher-7 is a Partner K950 ring saw.  
 22 Q Okay. Kalsher-8?  
 23 A I can't tell from the picture. It's  
 24 been expanded too large. The -- the wording has  
 25 washed out. I should recognize it, though.

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1 Kalsher-4? Is that a Partner gasoline-powered  
 2 cut-off machine?  
 3 A It appears to be. It is a K750, you  
 4 know.  
 5 Q Okay. And where did you take that  
 6 photo or where does the photo come from?  
 7 A I downloaded it off the internet.  
 8 Q Okay. Do you remember why you were  
 9 sending those photos to Dr. Kalsher?  
 10 A Well, I see some of them illustrate  
 11 warning signs on the top of the saw. In other  
 12 words, that was a practice in the industry such as  
 13 on like Kalsher-4, there is a warning sign on top.  
 14 Kalsher-5 there is pictograms on top, and I  
 15 advocated this. And that's a wacker. You know, I  
 16 would --  
 17 Q Hold up. Let's stay with 5 and then I  
 18 will let you continue. What product is depicted on  
 19 Kalsher-5?  
 20 A That's a wacker cut-off saw.  
 21 Q Gasoline-powered cut-off saw?  
 22 A Yeah.  
 23 Q And what model?  
 24 A I can't read it here.  
 25 Q Okay. And I think you were going to

Page 21

1 Q Okay. Is there anything else in your  
 2 file that would tell you what that is on K-8 or not?  
 3 A Not that I can think of.  
 4 Q Does K-8 depict a gasoline-powered  
 5 cut-off machine?  
 6 A Yes, it does.  
 7 Q Thank you.  
 8 Next one, K-9?  
 9 A That's a Makita.  
 10 Q Is it a Makita gasoline?  
 11 A Yes. It is.  
 12 Q Is it a -- let me finish the question.  
 13 I'm sorry.  
 14 Is it a Makita gasoline-powered cut-off  
 15 machine?  
 16 A Yes, it is.  
 17 Q And what model, can you determine?  
 18 A It appears to be a DPC7311.  
 19 Q And how about Kalsher-10, what's  
 20 depicted in that photograph?  
 21 A This is the back end of what looks like  
 22 would be a -- a Partner saw.  
 23 Q When you say saw, are you referring to  
 24 a gasoline-powered cut-off machine?  
 25 A Yeah. Yeah. A cut-off saw. Yeah, a

(Pages 18 to 21)

6

Page 22

1 demo saw. Right. A concrete cut-off saw. Right.  
 2 And it illustrates all the pictograms right  
 3 where you put your hand.  
 4 Q Were there other gasoline-powered  
 5 cut-off machines that you saw depicted on the  
 6 internet that you did not make pictures of?  
 7 A Oh, sure.  
 8 Q And did any of them have profiles  
 9 different than these?  
 10 A Well, specifically, yes. Generally,  
 11 no. They are -- they are -- they are all kind of  
 12 similar.  
 13 Q What do you mean when you say  
 14 specifically, yes, they had different profiles than  
 15 these?  
 16 A Well, like the -- the Stihl 350 has an  
 17 air cleaner that sits up on top, projects out, which  
 18 none -- none of these have.  
 19 Q I'm sorry. I might not have made my  
 20 questioning clear.  
 21 The gasoline-powered cut-off machines that you  
 22 saw on the internet but you did not make photos of,  
 23 how did they differ in profile from exhibits  
 24 Kalsher-4 through 10?  
 25 A Well, that's what I was just

Page 23

1 describing.  
 2 Q I'm sorry. Go ahead. I'm sorry.  
 3 A The -- the Stihl 350 has a -- an air  
 4 cleaner that sticks up at top, looks like a little  
 5 projection. But otherwise most of them, the  
 6 majority of them have some -- have the saw blade,  
 7 have the handle, and then the handle on the back.  
 8 Q Uh-huh.  
 9 A You know, so they are just variations,  
 10 different sizes.  
 11 Q Do you recollect whether you sent these  
 12 to Dr. Kalsher because -- withdrawn.  
 13 Did you talk to Dr. Kalsher about this case  
 14 before you sent them to him?  
 15 A I -- I don't remember.  
 16 Q Do you recollect whether he initiated  
 17 them sending -- you sending them to them or you  
 18 initiated? And what I mean by that is, did he ask  
 19 you about what cut-off machines look like or to send  
 20 you pictures, or did you offer that to him?  
 21 A I don't believe he asked me what  
 22 cut-off machines look like. I don't remember  
 23 whether I initiated it or not. I probably did. I  
 24 don't know.  
 25 Q Okay. And if you probably initiated

Page 24

1 it, why would you have done that?  
 2 MR. PACKIN: I object to the form.  
 3 THE WITNESS: Perhaps just -- I don't  
 4 know. I would be speculating right now at this  
 5 point. I don't recall.  
 6 BY MR. KOTT:  
 7 Q Have you spoken to Dr. Kalsher about  
 8 this case?  
 9 A I've spoken to him, yes.  
 10 Q How many times?  
 11 A I don't remember.  
 12 Q Why was that?  
 13 A Well, I wanted to know when he had  
 14 testified and wanted to find out -- subsequently got  
 15 his deposition transcript.  
 16 Q Are you talking about in this case?  
 17 A Yeah.  
 18 Q I'm not sure I'm understanding. It's  
 19 my fault.  
 20 You spoke to him, you are telling me, because  
 21 you wanted to know when he had given a deposition or  
 22 depositions?  
 23 A Well, yeah. I wanted to know if he had  
 24 given the deposition, if he had been deposed.  
 25 Q Did you ask Mr. Packin that?

Page 25

1 A I don't recall.  
 2 Q Isn't that something you normally  
 3 determine from the lawyer who retained you rather  
 4 than contacting another expert directly?  
 5 MR. PACKIN: I object to the form.  
 6 THE WITNESS: I would do it either way.  
 7 BY MR. KOTT:  
 8 Q Did you discuss any of your opinions or  
 9 the bases, B-A-S-E-S, for your opinions with  
 10 Dr. Kalsher?  
 11 A No.  
 12 Q Did he discuss any of his opinions or  
 13 the bases for his opinions with you?  
 14 A No.  
 15 Q So the only conversation was a  
 16 conversation where you called him and asked whether  
 17 he had been deposed, essentially?  
 18 A Well, I had talked to him about another  
 19 case, a case that's not, you know, separate.  
 20 Q What case was that?  
 21 A It had to do with a -- I think it was a  
 22 lawn mower.  
 23 Q Is he an expert in that case?  
 24 A No. It had to do with the warnings,  
 25 the warnings.



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1 Q Okay. Was he an expert in that case?  
 2 A He may have consulted the attorney. I  
 3 think I asked -- yeah, that's what it was. The  
 4 attorney asked me to recommend somebody.  
 5 Q And was the attorney looking for  
 6 somebody who had a specialty in warnings?  
 7 A Yes.  
 8 Q Do you have a specialty in warnings?  
 9 A Well, I certainly do address warnings,  
 10 yes.  
 11 Q I'm sorry. I didn't ask if you  
 12 addressed warnings. Let me try it again.  
 13 Do you have a specialty in warnings?  
 14 A Yes.  
 15 MR. PACKIN: Asked and answered. Let's  
 16 not be argumentative.  
 17 THE WITNESS: Sorry. It was not -- it  
 18 was not a lawn mower case.  
 19 BY MR. KOTT:  
 20 Q Do you remember the name of the  
 21 attorney that retained you?  
 22 A Not off the top of my head, no.  
 23 Q Was it an attorney representing a  
 24 plaintiff in a products liability case?  
 25 A Yes.

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1 Q Was the product involved, a machine of  
 2 some sort, some kind of mechanical apparatus?  
 3 A Yes.  
 4 Q And did you render warning opinions in  
 5 that case?  
 6 A I did.  
 7 Q And have you given a deposition in that  
 8 case?  
 9 A No.  
 10 Q Has your report been served, to your  
 11 knowledge?  
 12 A I think the case has been settled.  
 13 Q Do you recollect, in your report you  
 14 referred to an Amana blade?  
 15 A Yes, I do.  
 16 Q And do you recollect you, again  
 17 paraphrasing, you said something in your report  
 18 about Amana having a pictorial not to use the blade  
 19 on a cut-off machine?  
 20 A Yes. Yes. As a matter of fact, I was  
 21 asked -- I can't remember whether you asked me or  
 22 Mr. Walsh asked me, because I think it was you, but  
 23 anybody having pictorials warning against the use of  
 24 these blades on these cut-off machines, and Amana  
 25 does. Now, I had said -- talking about deposition.

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1 Q During the deposition in this case?  
 2 A Yes.  
 3 Q Okay.  
 4 A I said no because I just -- I guess I  
 5 just didn't remember at that point.  
 6 Q Forgot. Fair enough.  
 7 A But I have it in my report, and I have  
 8 an attachment that illustrates.  
 9 Q I'm with you. I understand.  
 10 A Okay.  
 11 Q So -- so you -- you made a mistake when  
 12 you testified last time and you are correcting the  
 13 mistake now?  
 14 A Correct.  
 15 MR. PACKIN: I object to the form.  
 16 You can answer.  
 17 BY MR. KOTT:  
 18 Q All right. Now, about the Amana  
 19 pictorial, is that actually on the blade itself or  
 20 is that on the packaging?  
 21 A I would have to check my source, but I  
 22 think it is on the blade itself.  
 23 Q You do?  
 24 A I -- I -- I have to check. Yeah. I  
 25 would have to check.

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1 Q I'm not sure what you are telling me.  
 2 Are you telling me you believe it's on the blade or  
 3 that you would need to check to see if it's on the  
 4 blade?  
 5 A No. If -- if I wrote in my report that  
 6 it's on the blade, then it's on the blade.  
 7 Q No, I don't think you did write in your  
 8 report that it's on the blade.  
 9 MR. PACKIN: Want a copy of his report  
 10 for him to look at or no?  
 11 BY MR. KOTT:  
 12 Q Paragraph 6.143, page 26.  
 13 You say as follows: Manufacturers are, of  
 14 course, not restricted to the industry available  
 15 icon I propose. They certainly are free to create  
 16 their own in order to indicate their blade is  
 17 unsuitable for demo saws as Amana does for its AGE  
 18 14-inch diameter, 24-teeth blade. AGE's icon which  
 19 clearly depicts a demo saw is remarkably similar to  
 20 a Stihl 400. See attached.  
 21 My question to you is, when I read this, are  
 22 you saying that Amana's actually has it on the  
 23 blade, or they have it on their website, or they  
 24 have it in their catalog, or they have it on the  
 25 internet, or somewhere else? That's what I'm trying

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8

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1 to find out.

2 A At this point, I can't recall.

3 Q Okay. Do you remember whether I asked

4 you that question in the Stout case?

5 A I don't remember.

6 Q Okay. Do you remember what Amana's

7 reasoning was in using that pictorial? That is,

8 have you ever spoken to anybody about Amana, why

9 they put it on?

10 MR. PACKIN: I object to the form.

11 BY MR. KOTT:

12 Q I'm going to withdraw the question.

13 Have you ever spoken to anybody from Amana

14 about Amana put that pictorial on whatever they put

15 it on?

16 A I have not spoken to anybody from

17 Amana.

18 Q Do you have any firsthand knowledge

19 from any source as to why Amana used that pictorial?

20 A I would have no firsthand knowledge.

21 Q Have you done any investigation to try

22 to determine why Amana used that pictorial?

23 MR. PACKIN: Object to the form.

24 THE WITNESS: No.

25 BY MR. KOTT:

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1 Q I'm going to ask you to assume that

2 Amana uses it in some places, like on the packaging,

3 but not on the blade itself.

4 Do you have any information how Amana made the

5 decision to not use that pictorial on the blade

6 itself?

7 MR. PACKIN: I object to the form.

8 THE WITNESS: Do not.

9 BY MR. KOTT:

10 Q What are the foreseeable misuses of

11 carbide-tipped saw blades?

12 MR. PACKIN: I object to the form.

13 You can answer.

14 THE WITNESS: One would be running it

15 too fast. Another one would be installing it on

16 these hand-held, gasoline-powered concrete cut-off

17 saws, demo saws. Another one would be using it with

18 a cracked -- a crack in it. Another one would be

19 installing it not centered on the Arbor. Another

20 one would be chipped, having missing teeth. Another

21 one would be operating with a blade that's warped or

22 putting a warped blade on a saw. Another one would

23 be installing it backwards. That's all that comes

24 to mind at this moment.

25 BY MR. KOTT:

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1 Q I just have a couple questions about

2 that answer.

3 When you said installed not on the center of

4 the arbor, do these not center by themselves?

5 A Well, if you install the blade on an

6 arbor that was smaller, you would need a bushing.

7 Q Okay. That's what you meant by that --

8 which is common practice.

9 Q That's what you meant by that answer?

10 A Right.

11 Q Okay. How do you know that those

12 foreseeable misuses you listed are foreseeable

13 misuses?

14 MR. PACKIN: I object to the form.

15 You can answer.

16 THE WITNESS: My experience doing these

17 forensic investigations over the past 14 or 15

18 years, whatever it is, plus my engineering

19 experience, my familiarity with the -- the

20 equipment, plus my participation in the ANSI 01.1,

21 the writing of the ANSI 01.1 standard for -- for

22 woodworking.

23 BY MR. KOTT:

24 Q Have you -- are you aware either

25 through your own work or from the ANSI committee of

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1 accidents occurring with each one of those

2 foreseeable misuses, you know, where somebody

3 actually got hurt?

4 A Maybe not specifically or, you know,

5 over the years I've known of things of that nature,

6 yes. Did I -- did I also mention throwing teeth?

7 Q I don't remember if you did, but if you

8 did, the court reporter --

9 MR. PACKIN: He asked for foreseeable

10 misuses.

11 THE WITNESS: Yeah. Oh, I'm sorry.

12 That's not a misuse.

13 BY MR. KOTT:

14 Q And with respect -- were you done with

15 your answer?

16 A Yes.

17 Q With respect to foreseeable uses, are

18 there ways people can get hurt even when a blade is

19 used in a foreseeable use?

20 A Yes.

21 Let me back up on foreseeable misuses.

22 Q Right.

23 A Installing a blade on a saw that is not

24 equipped with a guard. I mean, that's --

25 Q That's another one?

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1 A That's another one. Right. Or  
 2 operating it, right.  
 3 Q Right. And when you say saw, in that  
 4 case you are referring to a wood-cutting piece of  
 5 machinery?  
 6 MR. PACKIN: I object to the form.  
 7 THE WITNESS: Yes.  
 8 BY MR. KOTT:  
 9 Q Now, let me come back to the question I  
 10 asked.  
 11 With respect to foreseeable uses, that is  
 12 somebody is using with -- it in a way that is not a  
 13 misuse, are there accident modes that people can get  
 14 hurt on?  
 15 A Yes.  
 16 Q And what are those accident modes?  
 17 A One is inadvertent contact with the  
 18 blade despite the fact that the saw is equipped with  
 19 a guard. The guard has an ability to prevent it.  
 20 That's one.  
 21 Number two would be kickback material being  
 22 struck by the material, and that can include  
 23 fatalities.  
 24 Q Can being struck by the blade include  
 25 fatalities?

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1 though.  
 2 Q Are you aware of anybody who has ever  
 3 used a 14-inch blade for a nonprofessional use or in  
 4 the employment setting?  
 5 A Well, there are a lot of saws in the --  
 6 you know, in use, and it's likely that  
 7 nonprofessionals in a nonprofessional setting could  
 8 use it.  
 9 Q But are you, Mr. Growney, aware of  
 10 anybody who has ever used a 14-inch wood-cutting  
 11 blade in a nonprofessional use?  
 12 MR. PACKIN: Personal, firsthand?  
 13 MR. KOTT: Sure.  
 14 THE WITNESS: I did.  
 15 BY MR. KOTT:  
 16 Q Anyone else?  
 17 A A friend of mine who had the saw.  
 18 Q Anyone else?  
 19 A None comes to mind.  
 20 Q Are 14-inch saw blades generally sold  
 21 in the big box retailers? And what I mean by big  
 22 box retailers are Home Depot, Lowes, Sears.  
 23 MR. PACKIN: I object to the form.  
 24 THE WITNESS: 14-inch wood-cutting  
 25 blades?

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1 A It could. Yeah.  
 2 Q You gave me the inventory of  
 3 foreseeable misuses before. Could all of those  
 4 result in severe injury or worse?  
 5 MR. PACKIN: I object to the form.  
 6 THE WITNESS: Sure.  
 7 BY MR. KOTT:  
 8 Q Okay. Is this size blade usually used?  
 9 By this size, you know, I'm referring to the blade  
 10 in this case.  
 11 A You mean the 14-inch?  
 12 Q Yes, sir.  
 13 A 24-tooth?  
 14 Q Yeah. Well, let's just deal with  
 15 14-inch.  
 16 Are 14-inch saw blades usually used by  
 17 professionals?  
 18 MR. PACKIN: I object to the form.  
 19 THE WITNESS: well, I -- flip it  
 20 around, the other way around and say that usually  
 21 14-inch tools, 14-inch blades are used in a  
 22 professional setting.  
 23 BY MR. KOTT:  
 24 Q Okay.  
 25 A Not necessarily by professionals,

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1 BY MR. KOTT:  
 2 Q Yes.  
 3 A Wood cutting. When I've looked, I  
 4 haven't found them there.  
 5 Q Have you gone on the websites for Home  
 6 Depot, or Lowes, or Sears to see if they are offered  
 7 on the websites of those companies?  
 8 A I don't recall doing that.  
 9 Q What are the characteristics of the  
 10 people who use 14-inch saw blades?  
 11 MR. PACKIN: All people in all  
 12 settings?  
 13 MR. KOTT: You can answer.  
 14 MR. PACKIN: Is that the question?  
 15 Otherwise I object to the form.  
 16 MR. KOTT: Mr. Packin, no speaking  
 17 objections, if we can. You can just say objection  
 18 to the form.  
 19 BY MR. KOTT:  
 20 Q The question is, what are the  
 21 characteristics of people who use this type of  
 22 blade? And by this type, I'm referring to 14-inch  
 23 wood-cutting blades.  
 24 A I don't know how I would know all the  
 25 characteristics of all the people who use 14-inch

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1 blades. You know, I don't know where there is  
 2 anyplace that you can go and get that information.  
 3 You know, it is speculative.  
 4 Q Can you give me the characteristics of  
 5 any of the people who use 14-inch saw blades?  
 6 MR. PACKIN: I object to the form.  
 7 THE WITNESS: Well, I -- I know that  
 8 they are used in a professional setting.  
 9 BY MR. KOTT:  
 10 Q Okay. Do you recollect testifying in  
 11 your last deposition about a Big Foot, 14-inch  
 12 circular saw?  
 13 A Yes.  
 14 Q Does -- does -- were you done? I'm  
 15 sorry.  
 16 A Yeah. You know, I can't remember  
 17 whether Big Foot made the 14-inch or not. There's  
 18 -- there's -- whether or not -- but -- yes, go  
 19 ahead.  
 20 Q Does Big Foot make a 12 or 14-inch  
 21 circular saw that's gasoline-powered?  
 22 A I -- I don't know. I've never seen  
 23 one.  
 24 Q Okay. Does any manufacturer of  
 25 wood-cutting saw blades include bushings with the

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1 blade?  
 2 A Yes.  
 3 Q Who does that?  
 4 A Stihl. I'm sorry. Not Stihl. Oldham.  
 5 Q Is that on a wood-cutting blade?  
 6 A Yes.  
 7 Q So Oldham includes bushings on  
 8 wood-cutting blades?  
 9 A My recollection, yes.  
 10 Q Where -- where does that come from?  
 11 what are you referring to?  
 12 A Well, I bought a 14-inch, 24-tooth  
 13 Oldham blade off the internet.  
 14 Q Right.  
 15 A And I believe it was supposed to have a  
 16 bushing.  
 17 Q Was there a bushing with it?  
 18 A No. The packaging was broken when I  
 19 got it, so it was missing.  
 20 Q Okay. When you say it was supposed to  
 21 have a bushing, where are you getting that from?  
 22 A Well, that's my recollection.  
 23 Q From where? That's what I'm asking.  
 24 where did you see that Oldham sold bushings with  
 25 their wood-cutting blades?

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1 A I'm sorry. Maybe I'm confusing that  
 2 with the -- the DeWalt abrasive blade.  
 3 Q Right. Yes.  
 4 A Right. And there was a reducer bushing  
 5 with that one.  
 6 Q Right. In your report you refer to a  
 7 DeWalt abrasive blade.  
 8 My question is wood-cutting blade, so let me  
 9 try it again.  
 10 A Okay.  
 11 Q Are you aware of any manufacturer of  
 12 wood-cutting blades that includes reducing bushings  
 13 with their blades?  
 14 A The fact that I'm -- I'm not aware, but  
 15 that doesn't mean nobody does it.  
 16 Q Okay. But you are not aware of any?  
 17 A Right. I am aware that they are  
 18 commonly included with -- with a lot of abrasive  
 19 wheels.  
 20 Q Okay.  
 21 A Right.  
 22 Q With respect to wood-cutting blades,  
 23 are you aware of any manufacturer that includes  
 24 bushings with wood-cutting blades?  
 25 A Well, like I said, you asked me that

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1 before, and I said I'm not aware. It doesn't mean  
 2 that nobody does.  
 3 Q Do you -- do you know why -- I'm going  
 4 to ask you to assume that they are not included with  
 5 wood-cutting blades.  
 6 Do you know why some manufacturers of abrasive  
 7 blades include bushings but the manufacturers of  
 8 wood-cutting blades do not?  
 9 MR. PACKIN: I object to the form.  
 10 THE WITNESS: No manufacturer has told  
 11 me that.  
 12 BY MR. KOTT:  
 13 Q Okay. But do you have any information  
 14 on that?  
 15 MR. PACKIN: I object to the form.  
 16 THE WITNESS: Well, that's a  
 17 compound -- no, I don't.  
 18 BY MR. KOTT:  
 19 Q In your opinion on the Stihl cut-off  
 20 machines, should the operator read the Stihl owner's  
 21 or operator's manual before operating the machine?  
 22 A Sure.  
 23 Q Why?  
 24 A Well, there is a whole lot of  
 25 information in it, although it is quite a -- quite a

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1 bit to read and quite a bit of information to digest  
 2 it. A lot of information is helpful to them. A lot  
 3 of information is related to -- on safety.  
 4 Q Is the safety of a cut-off machine  
 5 dependent on the operator reading the manual?  
 6 MR. PACKIN: Objection to form.  
 7 MR. KOTT: What's the basis of your  
 8 objection, Mr. Packin?  
 9 MR. PACKIN: Because that is a  
 10 speculative question and far too broad.  
 11 BY MR. KOTT:  
 12 Q Okay. You may answer.  
 13 A Repeat the question, please.  
 14 Q Is the safety of an operator operating  
 15 a cut-off machine dependent on the operator reading  
 16 the manual for the machine?  
 17 A Could be.  
 18 Q Is the safety of a cutting attachment  
 19 dependent upon the operator reading the manual for  
 20 the machine that the cutting attachment is going to  
 21 be placed on?  
 22 MR. PACKIN: Same objection as to form.  
 23 THE WITNESS: Could you please repeat  
 24 that question?  
 25 (The court reporter read back the

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1 pending question as follows:  
 2 "Question: Is the safety of a cutting  
 3 attachment dependent upon the operator  
 4 reading the manual for the machine that the  
 5 cutting attachment is going to be placed  
 6 on?")  
 7 THE WITNESS: I don't think that  
 8 question makes sense.  
 9 BY MR. KOTT:  
 10 Q Okay. You don't understand it?  
 11 MR. PACKIN: That's not what he said.  
 12 BY MR. KOTT:  
 13 Q If you don't understand it, I will ask  
 14 you a different question.  
 15 A I thought I understood it. I didn't  
 16 think it made sense because I can't see the safety  
 17 of the cutting attachment.  
 18 Q What do you mean by that?  
 19 A Well, you asked if the safety of the  
 20 cutting attachment is dependent upon the operator  
 21 reading the manual.  
 22 Q Is the safety of a person using the  
 23 machine dependent upon the operator reading any  
 24 instructions that come with the cutting attachment?  
 25 MR. PACKIN: I object to the form.

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1 Asked and answered.  
 2 THE WITNESS: It could be. He could --  
 3 BY MR. KOTT:  
 4 Q In what way?  
 5 A Well, he could learn things that he  
 6 doesn't know, but that's not the only way he could  
 7 learn.  
 8 Q In your report you rendered a number of  
 9 opinions; is that correct?  
 10 A Yes.  
 11 Q Were all the opinions you rendered in  
 12 your report to a reasonable degree of engineering  
 13 probability?  
 14 A Well, that's one of the qualifiers.  
 15 Yes.  
 16 Q Okay.  
 17 A Is that what I said in my report?  
 18 Q I don't remember.  
 19 You mean whether you used that language?  
 20 A Yes.  
 21 Q I don't think you did, but I'm not  
 22 representing that, but that's why I was asking.  
 23 A Well, some people make a distinction  
 24 between engineering probability and engineering  
 25 certainty.

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1 Q Do you make that distinction?  
 2 A Well, I have to check my reports, see  
 3 what I said.  
 4 Q Okay. Of the manufacturers of  
 5 carbide-tipped saw blades that you are aware of, do  
 6 any of them have the warnings that you suggest in  
 7 this case on their blades themselves?  
 8 A Well, we mentioned Amana.  
 9 Q Which you didn't know one way or the  
 10 other.  
 11 A Yeah. At this point, I can't recall.  
 12 Q Okay.  
 13 A But the other ones, I -- I don't  
 14 believe so. But that doesn't mean they shouldn't.  
 15 Q Okay.  
 16 A It is not a case of where, if we all do  
 17 it wrong, it is right.  
 18 Q Move to strike as not being responsive,  
 19 but we will let the judge deal with that.  
 20 Do you know where Jingoli obtained the reducer  
 21 bushing that was on the cut-off machine at the time  
 22 of the accident?  
 23 A Well, they obtained a number of reducer  
 24 bushings from Hanes. I don't know if there was --  
 25 Q From Hanes or from Sanders?

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1 A I'm sorry. Not Hanes.  
 2 MR. PACKIN: Let him finish.  
 3 THE WITNESS: Sander Power Equipment.  
 4 I -- I don't know if we know that that was exactly  
 5 where it came from.  
 6 BY MR. KOTT:  
 7 Q Do you know where Sander Power  
 8 Equipment obtained those reducer bushings?  
 9 A I don't recall.  
 10 Q Do you know who the manufacturer was of  
 11 the reducing bushing that was on the cut-off machine  
 12 at the time of the accident?  
 13 A I don't.  
 14 Q You purchased a Stihl cut-off machine  
 15 off the internet?  
 16 A Yes.  
 17 Q Did you actually start it up?  
 18 A Yes.  
 19 Q Did you put gasoline in it?  
 20 A Yes.  
 21 Q And where did you store it when you  
 22 were done with it?  
 23 A In my garage.  
 24 Q And did you drain the gasoline in some  
 25 fashion?

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1 A Yes.  
 2 Q How did you know to do that?  
 3 A I have 55 years of experience with  
 4 two-cycle engines.  
 5 Q Okay. In your opinion --  
 6 A I'm sorry. Go ahead.  
 7 Q Mr. Growney, if I interrupt you, just  
 8 tell me and I will let you finish; okay?  
 9 A I will.  
 10 Q Thank you, sir.  
 11 In your opinion, was it unsafe to cut the  
 12 plastic piping cut at the time of the accident with  
 13 the Stihl cut-off machine?  
 14 A Yes.  
 15 Q In your opinion, what would have been a  
 16 safe tool to cut that pipe with?  
 17 A Well, that's an interesting question  
 18 because these Stihl -- Stihl, I'm sorry, concrete  
 19 cut-off saws and demo saws are made to cut plastic,  
 20 so there is some kind of an attachment, cutting  
 21 attachment, that is suitable for cutting plastic.  
 22 But Stihl knows about. Stihl knows about.  
 23 Q Can you explain what you meant by that  
 24 answer? Because I didn't follow it.  
 25 A Well, you asked me --

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1 MR. PACKIN: You need to tell him what  
 2 you don't follow.  
 3 BY MR. KOTT:  
 4 Q Go ahead. You can answer.  
 5 MR. PACKIN: I object to the question.  
 6 Go ahead.  
 7 THE WITNESS: You asked me what was the  
 8 proper one.  
 9 BY MR. KOTT:  
 10 Q Okay. Are you saying that you can use  
 11 the Stihl cut-off machine involved in this case to  
 12 cut the pipe safely?  
 13 A Well, that potential exists because  
 14 these machines are made to cut plastic. But it  
 15 requires some kind of a -- an appropriate cutting  
 16 attachment.  
 17 Q And what would be the appropriate  
 18 cutting attachment?  
 19 A Well, I don't know. I -- I -- I  
 20 searched for them and I couldn't find them.  
 21 Q So if Jingoli were to ask you as an  
 22 expert --  
 23 A Well -- well --  
 24 Q Go ahead.  
 25 A Go ahead. I'm sorry.

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1 Q If Jingoli were to hire you and ask you  
 2 as an expert what is a safe tool to use to cut the  
 3 pipe that was being cut at the time of the accident,  
 4 what would you tell them?  
 5 A Well, the pipe manufacturer recommended  
 6 chainsaws, so that would be one.  
 7 Q And in your opinion --  
 8 A Hand saws would be another one. Like I  
 9 said before, there is a potential that exists that  
 10 these things, the Stihl saws might be suitable. It  
 11 is dependent upon whatever that cutting attachment  
 12 is.  
 13 Q When you referred to hand saws, you  
 14 mean something not powered?  
 15 A Yes.  
 16 Q Okay. In your opinion --  
 17 A And -- I'm sorry. And you have some  
 18 other saws. You could use a pneumatic saw.  
 19 Q Okay. In your opinion, would it be  
 20 safe to cut the piping cut at the time of the  
 21 accident with a chainsaw?  
 22 MR. PACKIN: I object to the form.  
 23 You can answer.  
 24 THE WITNESS: Yes.  
 25 BY MR. KOTT:



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1 Q okay. You, in your earlier  
2 depositions, referred to being aware of four  
3 other -- I'm sorry -- a total of four accidents  
4 where a wood-cutting blade was used; this case,  
5 Stout, a case in Florida, and a case in New York.  
6 Do you remember that?  
7 A A case in Europe?  
8 Q A case in New York state.  
9 A Yes.  
10 Q Were all those wood-cutting blades?  
11 A I don't think Dale Erb was.  
12 MR. PACKIN: E-R-B-B.  
13 BY MR. KOTT:  
14 Q And the case in New York, was it a  
15 wood-cutting blade?  
16 A Yes.  
17 Q How do you know that?  
18 A There is a -- a synopsis of the case  
19 that's available on the internet.  
20 Q And what brand was that blade in that  
21 case?  
22 A That I don't recall if that information  
23 was available.  
24 Q Have you reviewed any NEISS, N-E-I-S-S,  
25 data in this case?

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1 A Yes, I think I did.  
2 Q And -- and when you reviewed the NEISS  
3 data, did you see any indication that anyone had  
4 been injured while using a wood-cutting blade on any  
5 kind of gasoline-powered cut-off saw?  
6 A Well, the NEISS information doesn't  
7 break it down that good.  
8 Q Okay. Did you see any information on  
9 the NEISS data that indicated that anybody was  
10 injured while using a wood-cutting blade on a  
11 gasoline-powered cut-off saw?  
12 MR. PACKIN: Asked and answered.  
13 THE WITNESS: Well, NEISS doesn't  
14 present that data that way, so -- so, obviously, if  
15 they don't present it, well, then I can't see it.  
16 BY MR. KOTT:  
17 Q In your opinion, was the placing of the  
18 Oldham blade on the Stihl cut-off machine a misuse?  
19 A Yes.  
20 Q In your opinion, was it a foreseeable  
21 misuse?  
22 MR. PACKIN: Objection to form.  
23 THE WITNESS: Yes.  
24 BY MR. KOTT:  
25 Q What's your definition of, quote,

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1 foreseeable misuse, close quote?  
2 MR. PACKIN: I object to the form.  
3 THE WITNESS: It is actually a  
4 reasonably foreseeable misuse. The fact that it has  
5 been known -- has been a known practice for  
6 considerable time before this incident. Stihl had  
7 known it.  
8 BY MR. KOTT:  
9 Q Have you done any analysis of the  
10 frequency of accidents on wood-cutting blades,  
11 meaning the frequency of the various accident modes  
12 on wood-cutting blades?  
13 MR. PACKIN: I object to the form.  
14 THE WITNESS: Well, you know, I don't  
15 know if that -- that data exists. And if it did  
16 exist, I don't know of what -- how accurate or the  
17 veracity of it would be because, you know, you have  
18 a situation where you have the amount of hours that  
19 wood-cutting blades are used. In other words, on  
20 the saws, say on its intended uses, how many hours  
21 they are used, what kind of accidents that -- that  
22 occur during those hours. And then you have these  
23 misuses. How many hours, man hours are used, are  
24 they in use and what kind of accidents that they  
25 have. So you have frequency. You have severity.

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1 You have -- so if you had a case where you didn't  
2 have a lot of frequency but you had very severe  
3 cases, severe injuries, you would have to -- I don't  
4 know where you would get that information. You  
5 know, you would have to judge that against what the  
6 experience was in the intended uses.  
7 BY MR. KOTT:  
8 Q Why would you have to make that  
9 judgment?  
10 A Well, you -- you were -- I'm sorry.  
11 You want to make a comparison. I thought that's  
12 what you were asking me about, a comparison.  
13 Q Why do you want to make that  
14 comparison?  
15 MR. PACKIN: I object to the form.  
16 Go ahead.  
17 THE WITNESS: Why do I want to make a  
18 comparison?  
19 Well, if you want to say that this type of  
20 foreseeable misuse occurs so rarely that there is no  
21 need to warn against it, I would say that that's not  
22 a basis for a judgment.  
23 In other words, the -- the evaluation of that  
24 data would not be a sufficient basis.  
25 BY MR. KOTT:

(Pages 50 to 53)

14

<p style="text-align: right;">Page 54</p> <p>1 Q Okay. In determining what warnings to 2 place on a product, should you look at the frequency 3 of the various potential accident modes? 4 A If -- if you have access to data, 5 certainly. You know, that's helpful. That can be. 6 Q Why should you look at the frequency of 7 the various accident modes? 8 A Well, it's like everything else. You 9 know, you look at the frequency. You look at the 10 severity. You look at the latency. 11 Q Why do you look -- my question is why. 12 why do you look at the frequency and the severity? 13 why do you look at those two factors? 14 A Well, there are three factors. 15 Q Okay. why do you look at all three 16 factors, how do you do the analysis? 17 A It helps you to judge. 18 Q How does it help you to judge? 19 A Well, you know, like, if you -- if you 20 have an accident, potential accident that happens a 21 lot, that you know happens a lot, well, then, you 22 know, that certainly is a basis for a warning. Or 23 if when it happens, it produces such severe results, 24 even death, well, that's something that you need to 25 warn against, too. And the other thing is, is</p>	<p style="text-align: right;">Page 56</p> <p>1 A Well, I have -- have looked for 2 information. I have found that there has been some 3 severe accidents, yes. 4 Q And severe accidents in a number of 5 different accident modes using these blades, both 6 with foreseeable uses and foreseeable misuses? 7 MR. PACKIN: I object to the form. 8 THE WITNESS: Well, I was focusing on 9 this foreseeable misuse. 10 BY MR. KOTT: 11 Q Okay. 12 A This particular -- are you talking 13 about -- 14 Q Let me ask another question. 15 MR. PACKIN: Let him finish. 16 THE WITNESS: Are you expanding it out 17 to all possible uses of the 14-inch? 18 BY MR. KOTT: 19 Q Have you done -- have you done any 20 analysis of the severity of the injuries in the 21 various foreseeable misuses that you've talked about 22 in this deposition for the blade? 23 A Well, there is some information that's 24 available. It doesn't shrink it down to 14-inch 25 blades, but the -- and, of course, it is not</p>
<p style="text-align: right;">Page 55</p> <p>1 latency. In other words -- 2 Q What's latency mean? 3 A Okay. It means that it's not obvious 4 to the users, such as in this case. They were doing 5 it for years, you know. 6 Q Okay. In this case, have you done any 7 analysis of the frequency of the various accident 8 modes that can occur using these types of blades? 9 MR. PACKIN: I object to the form. 10 THE WITNESS: Well, I can't find any 11 data. 12 BY MR. KOTT: 13 Q Does that mean you have not done any 14 such analysis? 15 A Well, I mean, I looked. 16 Q Right. 17 A You know. Maybe it exists someplace, 18 you know, and I don't know whether it is -- even if 19 it exists, if it is useful, because as I explained 20 earlier, you need a good basis to judge the 21 frequency of accidents versus the -- the man hours 22 of the -- of the saw blades actually being used. 23 Q Have you done any analysis of the 24 severity of the various accident modes that can 25 occur when using these blades?</p>	<p style="text-align: right;">Page 57</p> <p>1 necessarily in a -- all within a professional 2 setting. But the Consumer Product Safety Commission 3 did -- has done an extensive study on injuries 4 related to wood-cutting saws. 5 Q That's foreseeable uses; correct? 6 A That's right. 7 Q I was asking foreseeable misuses. 8 A Oh. 9 Q Have you done any analysis of the 10 severity of the various accident modes that can 11 occur when there is a foreseeable misuse of this 12 blade? 13 A Well, yeah. I've searched for -- and I 14 made mention of it earlier, in the earlier 15 depositions, of the cases that have gone to federal 16 court. 17 Q Okay. 18 A And that's indicated the severity of 19 misuses, sure. 20 Q Okay. And you are aware of various 21 severe injuries occurring with a wide variety of 22 foreseeable misuses; is that true? 23 MR. PACKIN: I object to the form. 24 THE WITNESS: What do you mean wide 25 variety?</p>

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1 BY MR. KOTT:  
 2 Q Well, you gave me an inventory of  
 3 foreseeable missuses before. Do you remember that?  
 4 A Yes.  
 5 Q And for each of those foreseeable  
 6 misuses, severe injuries can occur; is that correct?  
 7 A That's possible. Yes.  
 8 Q And, in fact, for each of these  
 9 foreseeable misuses that you listed for me, death  
 10 can occur; is that correct?  
 11 A That's another possibility.  
 12 Q Thank you.  
 13 Now, sir, in your opinion, was the training of  
 14 Mr. McGee by his employer adequate in this case?  
 15 MR. PACKIN: I object to the form.  
 16 THE WITNESS: Well, there was one area  
 17 of inadequacy, but it turns out that they didn't  
 18 have -- the entire company didn't know you weren't  
 19 supposed to use these saw blades on these saws.  
 20 BY MR. KOTT:  
 21 Q What was the one area of inadequacy?  
 22 A Well, that.  
 23 Q Okay.  
 24 A You know.  
 25 Q Are you aware that Mr. Kuhn testified

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1 in his deposition, K-U-H-N, that he was aware that  
 2 it was not safe to use these blades on these cut-off  
 3 machines?  
 4 MR. PACKIN: I object to the form.  
 5 THE WITNESS: You know, I don't  
 6 remember that.  
 7 BY MR. KOTT:  
 8 Q Okay. And this Oldham blade, when it's  
 9 sold in its packaging new, is the wording on the  
 10 blade itself visible?  
 11 A In the packaging. I have to remember  
 12 what -- what it looks like in the packaging.  
 13 Q Here's what I'm driving at.  
 14 Does the packaging appear such that there is a  
 15 clear color cover over the blade so somebody can see  
 16 what's written on the blade through the packaging?  
 17 That's what I'm asking.  
 18 A Yes. And I think I had discussed the  
 19 font size.  
 20 Q Okay. We are going to come to the font  
 21 size.  
 22 You are critical of the wording of the Oldham  
 23 warning; is that correct?  
 24 A Is that what I wrote in my report?  
 25 Q Well, I thought you said you were

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1 critical -- well, you tell me. Are you critical of  
 2 the Oldham warning?  
 3 A I'm sorry. I have to check my report.  
 4 I -- I forgot what I read -- what I wrote.  
 5 Q Okay. Is there -- withdrawn.  
 6 In your review of the record in this case, did  
 7 you see anybody who was misled by the wording of the  
 8 Oldham warning?  
 9 MR. PACKIN: I object to the form.  
 10 THE WITNESS: I don't recall anybody  
 11 being misled --  
 12 BY MR. KOTT:  
 13 Q In your review --  
 14 A -- because it was -- it just wasn't  
 15 read.  
 16 Q All right. In your review of the  
 17 record in this case, did you see anybody who read  
 18 the warning on the Oldham blade and concluded from  
 19 the wording of the warning that it was safe to use  
 20 it on the Stihl cut-off machine?  
 21 MR. PACKIN: I object to the form.  
 22 THE WITNESS: You know, I want to check  
 23 my report.  
 24 BY MR. KOTT:  
 25 Q Okay. We will let you do that at a

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1 break.  
 2 In your report --  
 3 MR. PACKIN: Which I will need in about  
 4 five minutes.  
 5 BY MR. KOTT:  
 6 Q In your report you refer to an Oldham  
 7 blade that has warnings on the side that would face  
 8 the installer if installed on a Stihl demo saw. Do  
 9 you know what I'm referring to? I will read it to  
 10 you if you don't.  
 11 A Would you please read it?  
 12 Q Yeah. I'm reading from paragraph 6.149  
 13 on page 27.  
 14 Dewalt, another division of Black and Decker,  
 15 sells 14-inch carbide-tipped saw blades for cutting  
 16 ferrous materials. See DW7747, DW7745, DW7749, with  
 17 writing on the side that would face the installer if  
 18 installed on a Stihl demo saw.  
 19 Do you know what I'm referring to?  
 20 A Yes.  
 21 Q What -- what types of saws are those  
 22 blades used on?  
 23 A Metal-cutting saws.  
 24 Q And on those metal-cutting saws, does  
 25 the warning face out towards the operator when the

(Pages 58 to 61)

16

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1 operator correctly puts the blade on?

2 A Depends on the saw. I believe so. It

3 does, yes.

4 Q Okay. If this blade, the Oldham blade,

5 were mounted on a machine which it was intended to

6 be mounted on, would the writing on the blade itself

7 face out towards the operator?

8 A Usually, yes.

9 Q Okay. And is the reason in this case

10 that the writing did not face out toward the

11 operator because it was -- the blade was placed on a

12 machine that it was not intended to be placed on?

13 A Yes.

14 Q Okay. And are you -- withdrawn.

15 Even with the writing only on one side of the

16 Oldham blade, would it still be visible to someone

17 operating the machine?

18 A Would what still be visible?

19 Q If there is writing on the blade.

20 MR. PACKIN: Object to the form.

21 You can answer.

22 THE WITNESS: Well, there is a lot of

23 writing on the blade. As a matter of fact, the name

24 is gigantic compared to the -- the warning. So, you

25 know, yeah, you would see the name. I doubt you

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1 would see the warning. And when you are installing

2 it on the blade, on the machine, nothing is --

3 nothing faces you. No -- no writing faces you.

4 BY MR. KOTT:

5 Q From the operator's position of the

6 Stihl TS400, the operators operating the machine, is

7 there writing on the face of the blade visible to

8 the operator?

9 A I doubt it.

10 Q Really? Why do you say that?

11 A Really, really, really, really, really.

12 MR. PACKIN: Argumentative. I object

13 to the form.

14 BY MR. KOTT:

15 Q why do you say that?

16 A Because the operator stands above the

17 machine. I got my machine here now. And you can't

18 see the blade when you are cutting it. You can --

19 you know, you are standing above it. You are not

20 reading the thing while it is spinning, while it is

21 going 5,000 RPM, you know.

22 Q How about before it is turned on? Is

23 it visible to the operator?

24 MR. PACKIN: I object to the form.

25 THE WITNESS: The --

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1 BY MR. KOTT:

2 Q You know, let me withdraw the question.

3 A Wait, wait, wait. I want to finish.

4 You know, I was starting to answer.

5 The guard covers more than half the blade so

6 more than half the blade is covered. So if that

7 little warning that's this big is underneath that,

8 he is never going to see it. You don't see the

9 entire blade at all when it is installed on the

10 machine.

11 Q If an operator is holding the machine

12 in the operator's position, but it is not turned on,

13 can the operator see that there is some writing on

14 the blade?

15 A It's possible. It's possible he can

16 see on the other side there is none.

17 Q Okay.

18 A You can see both sides.

19 Q Okay. Okay. That's all I was asking.

20 MR. PACKIN: Whenever --

21 MR. KOTT: Yeah, let's take a break.

22 (Brief recess.)

23 (Growney-60 Notebook of articles from

24 Mr. Growney marked for identification.)

25 MR. KOTT: Before we go back, I marked

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1 as Exhibit Growney-60, which is a black notebook

2 that has a number of technical articles in it that

3 the witness produced this morning as having articles

4 he has read that were either authored or coauthored

5 by Timothy Rhoades, and maybe some articles authored

6 by others or not Timothy Rhoades, and I will

7 identify on the record later during a break what

8 articles are in that booklet.

9 Mr. Growney, would you hand to the

10 court reporter -- and I'm going to ask the court

11 reporter to mark as Growney-61, ANSI Z535.4-2002.

12 (Growney-61 ANSI Z535.4-2002 marked

13 for identification.)

14 BY MR. KOTT:

15 Q Okay. Mr. Growney, I want to call your

16 attention to the ANSI Z535.4-2002, if I may. And

17 particularly, pages 19 and 20.

18 MR. PACKIN: Give me one second. I

19 have to get my ANSI book. I thought it was here.

20 Thanks. Which pages, Dave?

21 BY MR. KOTT:

22 Q 19 and 20. Do you see at the bottom of

23 page 19 there is a section that begins "letter size"

24 and it goes over to page 20?

25 A Yes.

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1 Q And in footnote three at the bottom of  
2 page 19, it refers to a minimum safe distance?  
3 A Yes.  
4 Q And if I am simply holding the blade in  
5 my hand, what is the minimum safe distance?  
6 A Can be -- you can put it right up to  
7 your nose.  
8 Q And if I have the blade on a cut-off  
9 machine but the machine is not turned on, what is  
10 the minimum safe cutting distance -- what is the  
11 minimum safe distance?  
12 A It would be the same thing.  
13 Q Okay.  
14 A But what we really want to look at is  
15 how close do you need to be in order to read it.  
16 Q Okay.  
17 A You know, so --  
18 Q Now, on page 20, there is a discussion  
19 of minimum letter height calculations?  
20 A Yes.  
21 Q As I recollect, you first obtained this  
22 standard in your work in the Stout case. You  
23 actually wrote away and got this standard for your  
24 work in the Stout case. Does that sound right?  
25 A Yeah, that sounds right.

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1 Q Okay. Have you ever actually applied  
2 the analysis contained in section B3.3.13, minimum  
3 letter height calculations, on page 20 of this  
4 document?  
5 MR. PACKIN: I object to the form.  
6 THE WITNESS: Yes.  
7 BY MR. KOTT:  
8 Q Okay. And did you do that in this  
9 case?  
10 A Yes.  
11 Q Did you do that as to the Oldham blade?  
12 A Yes.  
13 Q What was the letter height of the word  
14 "warning" on the Oldham blade?  
15 A I would have to check my notes.  
16 Q Okay. At a break I'm going to ask you  
17 to come -- pull those out.  
18 you have notes. Is that something --  
19 MR. PACKIN: I'm going to object to you  
20 having him do it on a break.  
21 MR. KOTT: Whatever you want.  
22 MR. PACKIN: That counts as part of the  
23 time he is going to spend. You want him to look for  
24 it, he would look for it.  
25 BY MR. KOTT:

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1 Q What notes are you referring to? Is it  
2 something different than you -- that's already been  
3 marked?  
4 A Probably not.  
5 Q Oh. So it's already been marked.  
6 MR. PACKIN: He said probably not. He  
7 didn't say it has.  
8 THE WITNESS: One second. We need a  
9 little clarification.  
10 In other words, if I had done this on an  
11 exemplar, is that -- is that what you are talking  
12 about?  
13 BY MR. KOTT:  
14 Q Well, let me try.  
15 On an exemplar Oldham blade, exemplar of the  
16 one we're talking about, had you measured the height  
17 of the word "warning"?  
18 A I believe so.  
19 Q And is that reflected in some of  
20 your -- in some of your notes?  
21 A Think so.  
22 Q And you also measured the height of the  
23 rest of the words of the warning after the word  
24 warning on the Oldham exemplar?  
25 A I believe so.

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1 Q And is that also reflected in your  
2 notes?  
3 A Yes.  
4 Q Okay. And your best recollection is  
5 that those were notes that were previously marked in  
6 your deposition in this case?  
7 A Probably not.  
8 Q Okay. Can you pull those out, please?  
9 Let me interrupt you for one moment. Let me  
10 hand this to the court reporter. Is Growney-41 what  
11 you are looking for?  
12 A I don't know. What is that?  
13 Well, no.  
14 Actually, what I'm looking for is my field  
15 notes from Stout, because that's when I measured --  
16 took those measurements that you are asking about.  
17 Q Okay. Well, did you measure the size  
18 of the warning, the word "warning" on Stout, the one  
19 that was on the exemplar blade?  
20 A I think so.  
21 Q Can you estimate for us what the  
22 size -- what the measurement was?  
23 MR. PACKIN: I object to the form.  
24 THE WITNESS: No, I can't.  
25 BY MR. KOTT:

(Pages 66 to 69)

18



<p style="text-align: right;">Page 70</p> <p>1 Q Do you know -- calling your attention 2 to page 20 of the ANSI standard, there is a chart 3 there. 4 Do you know whether it was -- the size of the 5 word "warning" on the Oldham blade was greater or 6 less than the .084 of an inch? 7 A That's the recommended letter height 8 for favorable reading conditions. Is that what you 9 are saying? 10 Q I'm just asking -- let me withdraw the 11 question. 12 Do you know whether the size of the warning on 13 the Oldham exemplar that you measured was greater or 14 less than .084 of an inch? 15 A Not without checking my notes. 16 Q Do you know whether the other words in 17 the warning other than the word "warning" were 18 greater or smaller than .084 of an inch? 19 A Well, I think I addressed that in my 20 report. And I would have to check my report. 21 Q Well, you said in paragraph 6.98 of 22 page 19 of your report -- sorry. Strike that. 23 You said on paragraph 6.137 on page 26 of your 24 report that the mean letter height of text of Oldham 25 safety instructions and warnings on the packaging,</p>	<p style="text-align: right;">Page 72</p> <p>1 Q Okay. But I'm not sure you were asked 2 in Stout this precise question. 3 Would you be able to provide Mr. Packin with 4 your measurements of the on-product warning on the 5 Oldham exemplar blade, meaning how high or tall they 6 were? 7 A Yes. 8 Q Did you measure the capital letter, 9 quote, H, close quote, on the Oldham blade? 10 A I'm trying to remember if it had a 11 capital H. I can't remember whether it had a 12 capital H. 13 Q Whatever measurements you reached, do 14 you know whether they met what is required on pages 15 19 and 20 of the ANSI standard or did not meet what 16 is required there? 17 A Well, here's -- I don't have my -- 18 Q Do you want the court reporter to read 19 it back, or do you have -- 20 A No, no, no. That's fine. I got it. 21 Here's the problem. These are all for 22 favorable reading conditions, you know, and how 23 far -- oh -- oh -- I'm sorry. I just knocked -- 24 okay -- and how far -- the distance you are from the 25 hazard. Well, what we do is we take that and just</p>
<p style="text-align: right;">Page 71</p> <p>1 on the packaging, was approximately .050 inches 2 high. Does that sound right to you? 3 A Yes. 4 Q Do you recollect whether in your report 5 you had -- in this case you listed any measurements 6 of the on-product warning that was on the Stihl -- 7 that was on the Oldham blade? 8 MR. PACKIN: The letter height? 9 BY MR. KOTT: 10 Q The letter height, right. 11 A It would be in my report. 12 Q Well, that's my question. 13 Do you recollect whether -- let me tell you 14 why I'm asking. I didn't see in your report, and I 15 might have missed it. But I didn't see in your 16 report anywhere where you set forth the height of 17 the lettering on the Oldham warning. 18 A Well, I know I meant to address it 19 because I addressed it in Stout. 20 Q Right. 21 A And if I omitted it, it is a 22 typographical error. Maybe when I was writing it, I 23 overlooked it but I know I meant to address it, and 24 you can take whatever I said in Stout as pretty much 25 the same thing here.</p>	<p style="text-align: right;">Page 73</p> <p>1 apply it to how close or how far you need to be to 2 read the -- read the sign. This doesn't make any 3 difference whether it is a hazard or not. If you 4 are going to get some instruction from that warning, 5 well, then how close do you have to be to read it? 6 You know, if you hold it up to your nose, you can 7 probably read it, but that's not a normal spot for 8 somebody who can read English, you know, or for a 9 condition in which the -- you face the blade with 10 the warning on it, the size of the warning. 11 So if that warning was -- if you held that, 12 you know, would you hold it one foot away from you 13 and read it? I doubt it. You know, in the normal 14 procedure, to process your normal routine of 15 installing a blade, which apparently all these guys 16 who have done this installation have done it over, 17 and over, and over for quite a number of years. So 18 you -- you take the distance from the hazard, that 19 distance, okay, and you equate that to the distance 20 that you need to read the sign. That's the 21 comparison. 22 Q Okay. On the Oldham blade, the warning 23 that's present, the one that we are talking about in 24 this case -- 25 A Yes.</p>



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1 Q -- how far away can somebody with  
2 normal eyesight read it? Can they -- can they read  
3 it a foot away, two feet away, three feet away?  
4 A Calling on my recollection, I think I  
5 -- I did this calculation. It was eight or nine  
6 inches, or something like that. It was less than a  
7 foot. So in other words, you had to get that close.  
8 Now, in a normal handling of the blade, are you  
9 going to sit there with that blade for that length  
10 of time, for the length of time that it takes you to  
11 read it? No. It is not reasonable. That's --  
12 that's not a -- a reasonable letter height. You  
13 need to be able to see the letter height while you  
14 are sitting there and read it at a normal distance,  
15 which would be like 14 inches, 16, inches, 18  
16 inches. You know, arm's length.  
17 Q Are you telling me that arm's length,  
18 14 through 18 inches --  
19 A Whatever, right.  
20 Q -- somebody cannot read the warning on  
21 the Oldham blade?  
22 A Well, yeah. That's -- yes.  
23 Q Can they read the word "warning" on the  
24 Oldham blade at 14 to 16 inches?  
25 A I don't remember the -- my measurement

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1 of the height. So --  
2 Q You said, referring to page 20, these  
3 are all for favorable conditions?  
4 A Yes.  
5 MR. PACKIN: Page 20 of which, the ANSI  
6 or the report?  
7 BY MR. KOTT:  
8 Q The ANSI.  
9 Go back to page 20. Do you see the right  
10 column?  
11 A Right.  
12 Q And the right column is entitled  
13 recommended letter height for favorable reading  
14 conditions; right?  
15 A Yeah.  
16 Q The middle column is worded exactly the  
17 same way?  
18 A Right.  
19 Q And if you actually go up right above  
20 the table it says recommended letter height for  
21 unfavorable reading conditions, all distances,  
22 viewing distance, feet times .084; is that correct?  
23 A I'm sorry. Say that again.  
24 Q Yeah. Do you see right above the  
25 table, recommended?

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1 A Yes.  
2 Q Okay. And the .084 is the same as .084  
3 for one foot and less?  
4 A Right.  
5 Q Here's my question. Is there a typo in  
6 this document? That is, should the right-hand  
7 column, instead of saying, quote, recommended letter  
8 height for favorable reading conditions, close  
9 quote, state, recommended letter height for  
10 unfavorable reading conditions, close quote?  
11 A Not to my knowledge.  
12 Q Well, are they -- the heading above the  
13 columns is the same, the middle and the right; is  
14 that right?  
15 A Right.  
16 Q But there is different distances listed  
17 under both.  
18 A Yes.  
19 Q Why would that be? Why would you have  
20 a different distance both for favorable reading?  
21 A Well, you know, they are showing it in  
22 -- in the center column as two decimal points and  
23 they're showing it in the right column as three  
24 decimal points. I mean, the right column matches up  
25 with the -- with the formula up above.

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1 Q Okay. And the formula up above -- the  
2 formula up above is for unfavorable reading  
3 conditions; right?  
4 A Yes.  
5 Q That's why I'm asking if there is a  
6 typographical mistake. Do you see why I'm asking  
7 that?  
8 A I did not get any errata with this  
9 standard.  
10 Q Let me ask you what you think. Do you  
11 think there is a typographical error in this?  
12 A I'm going to have to wait for them to  
13 correct it.  
14 Q Okay. What is the definition of a,  
15 quote, favorable, close quote, reading condition in  
16 the ANSI standard? Is that defined?  
17 A I think I -- I'm sorry. I can't recall  
18 whether it is or isn't.  
19 Q What is your definition of, quote,  
20 favorable, close quote, reading conditions?  
21 A Bright, sunlit, no snow, no rain, no --  
22 no mud or dirt obscuring anything.  
23 Q What was your understanding on the day  
24 of the accident of the reading conditions?  
25 MR. PACKIN: I object to the form.

(Pages 74 to 77)

20

<p style="text-align: right;">Page 78</p> <p>1 THE WITNESS: It was -- was cold. I</p> <p>2 can't recall what the weather was, but, you know,</p> <p>3 really what you got to investigate is what the</p> <p>4 conditions were when it was installed.</p> <p>5 BY MR. KOTT:</p> <p>6 Q I'm sorry. My question was, can you</p> <p>7 recollect what the reading conditions were on the</p> <p>8 date of the accident?</p> <p>9 A No, I can't.</p> <p>10 Q Do you have any information about what</p> <p>11 the reading conditions were when the blade involved</p> <p>12 in the accident was installed on the Stihl cut-off</p> <p>13 machine?</p> <p>14 A Repeat the question, please.</p> <p>15 Q Do you have any information as to the</p> <p>16 reading conditions on the date that the Oldham blade</p> <p>17 was installed on the Stihl cut-off machine?</p> <p>18 A No.</p> <p>19 Q Are you -- withdrawn.</p> <p>20 Do you consider yourself an expert in the area</p> <p>21 of warnings?</p> <p>22 A Yes.</p> <p>23 Q What -- and you've described for us</p> <p>24 some or all of your expertise in the area of</p> <p>25 warnings; is that correct?</p>	<p style="text-align: right;">Page 80</p> <p>1 BY MR. KOTT:</p> <p>2 Q You mean immediately evident to someone</p> <p>3 who is not trained in the field?</p> <p>4 A Yes.</p> <p>5 Q And you need to do some analysis of the</p> <p>6 warnings that involves looking at hazards, and</p> <p>7 frequency, and things of that nature; correct?</p> <p>8 MR. PACKIN: Object to the form.</p> <p>9 THE WITNESS: I don't understand the</p> <p>10 question.</p> <p>11 BY MR. KOTT:</p> <p>12 Q In doing an analysis of whether a</p> <p>13 warning is adequate, one thing you would need to</p> <p>14 look at is what standards might apply; correct?</p> <p>15 A That's one thing, yes.</p> <p>16 Q And another thing you would need to</p> <p>17 look at is an analysis of the various ways people</p> <p>18 can get hurt on the product; correct?</p> <p>19 A Yes.</p> <p>20 Q And you need to do an analysis of the</p> <p>21 ways -- I'm sorry. You need to do an analysis of</p> <p>22 the severity of the injuries; correct?</p> <p>23 A Yes.</p> <p>24 Q And that -- you've done that in this</p> <p>25 case; correct?</p>
<p style="text-align: right;">Page 79</p> <p>1 MR. PACKIN: I object to the form.</p> <p>2 You can answer.</p> <p>3 THE WITNESS: Some, yeah.</p> <p>4 BY MR. KOTT:</p> <p>5 Q Okay. Would a group of lay people,</p> <p>6 meaning six or eight people selected randomly from</p> <p>7 the community, have the ability to analyze whether</p> <p>8 warnings on the Oldham blade were adequate or not?</p> <p>9 MR. PACKIN: I object to the form.</p> <p>10 You can answer.</p> <p>11 THE WITNESS: That would depend upon</p> <p>12 the people.</p> <p>13 BY MR. KOTT:</p> <p>14 Q Okay. Well, I guess what I'm asking</p> <p>15 for, are warnings a subject you need some expertise</p> <p>16 on or is that a subject that generally lay people</p> <p>17 can determine?</p> <p>18 MR. PACKIN: I object to the form.</p> <p>19 THE WITNESS: Well, you need some</p> <p>20 expertise.</p> <p>21 BY MR. KOTT:</p> <p>22 Q Why do you need some expertise?</p> <p>23 MR. PACKIN: I object to the form.</p> <p>24 THE WITNESS: There are a lot of things</p> <p>25 that are not immediately evident to you.</p>	<p style="text-align: right;">Page 81</p> <p>1 A Yes.</p> <p>2 Q And all those things would you expect</p> <p>3 generally that an expert would have -- withdrawn.</p> <p>4 You have the expertise to do that; correct?</p> <p>5 A Yes.</p> <p>6 Q Would you expect that six or eight lay</p> <p>7 people from the community would have the expertise</p> <p>8 to do that?</p> <p>9 MR. PACKIN: I object to the form.</p> <p>10 BY MR. KOTT:</p> <p>11 Q Just randomly chosen.</p> <p>12 MR. PACKIN: I object to the form.</p> <p>13 THE WITNESS: All of those?</p> <p>14 BY MR. KOTT:</p> <p>15 Q Yes.</p> <p>16 A All of those things?</p> <p>17 Well, randomly chosen, you probably would get</p> <p>18 some that couldn't do that.</p> <p>19 Q Some that could not, did you say?</p> <p>20 A Yes.</p> <p>21 Q Have you done any testing of your</p> <p>22 proposed warning as it relates to Oldham in this</p> <p>23 case?</p> <p>24 A No.</p> <p>25 Q If you did testing, what group would</p>

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1 you test it on? That is, how would you determine  
 2 the people you would test it on?  
 3 A I would go to construction sites.  
 4 Q Why would you go to construction sites?  
 5 A Because that's the -- the venue in  
 6 which this accident took place. I would look for  
 7 people who operated these hand-held concrete cut-off  
 8 saws, demo saws.  
 9 Q Why would you look for people that  
 10 operated these hand-held cut-off saws?  
 11 A Because that's the target audience.  
 12 Q Well, isn't the target audience, and  
 13 you correct me if I'm wrong, the people who also use  
 14 these blades on wood-cutting machines?  
 15 A Well, no, because this hazard doesn't  
 16 exist on -- on wood cutting -- wood-cutting  
 17 machines.  
 18 Q But I think you told me there are other  
 19 hazards that do exist on wood-cutting machines;  
 20 right?  
 21 A Yes.  
 22 Q Would you do any testing of this  
 23 warning on people who are using the blade on  
 24 wood-cutting machines?  
 25 A That could be done.

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1 Q Would you --  
 2 A You know --  
 3 Q My question is --  
 4 MR. PACKIN: Let him finish.  
 5 THE WITNESS: That could be, you know,  
 6 that could be done, but, you know, it might give you  
 7 misleading information.  
 8 BY MR. KOTT:  
 9 Q What material can you cut with this  
 10 blade? By that I'm asking, I know you can cut wood.  
 11 Can you safely cut concrete with this blade, being  
 12 the Oldham blade?  
 13 A I've never seen anybody -- any  
 14 information that said you could cut concrete with  
 15 this blade.  
 16 Q My question was, can you safely cut  
 17 concrete with this blade assuming that you are using  
 18 it on, for instance, a circular saw, a wood-cutting  
 19 circular saw?  
 20 A I've never seen any information that  
 21 you can cut concrete with this blade.  
 22 Q By that answer do you mean that you  
 23 don't know whether it can safely be used to cut  
 24 concrete?  
 25 MR. PACKIN: I object to the form.

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1 THE WITNESS: Well, I -- I wouldn't try  
 2 it. I wouldn't recommend it.  
 3 BY MR. KOTT:  
 4 Q And why wouldn't you recommend it?  
 5 A Because you are liable to throw teeth.  
 6 Q And that would be unsafe?  
 7 A Right.  
 8 Q Any other materials where it would be  
 9 unsafe -- withdrawn.  
 10 Are there any other materials that you could  
 11 cut with this material where it would be unsafe to  
 12 use it?  
 13 A Steel. You know, there might be other  
 14 metals that you might not want to use it.  
 15 Q And what's the potential accident mode  
 16 if you use it to cut steel, S-T-E-E-L?  
 17 A With what kind of a saw?  
 18 Q With any kind of saw that it's  
 19 appropriate to use this blade on?  
 20 A You could have kickback. You could  
 21 throw teeth.  
 22 Q In throwing of teeth, is one of the  
 23 potential injuries, loss of eyesight?  
 24 A Yes.  
 25 Q And in kickback, is one of the

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1 potential injuries, catastrophic injuries, meaning  
 2 amputations?  
 3 MR. PACKIN: I object to form.  
 4 THE WITNESS: That's possible, yes.  
 5 BY MR. KOTT:  
 6 Q Are any of the opinions you've given in  
 7 this case as to my client, Oldham, been peer  
 8 reviewed?  
 9 A Here's my peers.  
 10 Q You are pointing to the lawyers?  
 11 A And also the experts that have read my  
 12 opinions. So, yeah, they've -- they've reviewed it.  
 13 Q Is there anybody outside of this case,  
 14 meaning people who are not involved in this case,  
 15 who have peer reviewed your opinions in this case?  
 16 A I am unaware of anybody.  
 17 Q If you were hired by my client, Oldham,  
 18 to consult on whether the warning was adequate, how  
 19 would you go about doing that task? What would your  
 20 way of doing it be?  
 21 A You mean the existing warning?  
 22 Q Yeah.  
 23 A Well, I think I've laid that out in my  
 24 report.  
 25 Q Well, tell me what you would do if

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1 hired by Oldham. I know you're -- all right. And  
 2 if you want to have an alternative warning, how  
 3 would you go about the process of developing an  
 4 alternative warning?  
 5 MR. PACKIN: Which question is pending?  
 6 BY MR. KOTT:  
 7 Q If you were hired by my client, Oldham,  
 8 and you were asked to develop an alternative  
 9 warning, what process would you use to develop the  
 10 alternative warning?  
 11 And my question assumes not in the litigation  
 12 context, but as a consultant.  
 13 A Are you looking to hire me?  
 14 Q Please answer the question.  
 15 A Well, I would review the existing  
 16 warnings. I would review the sales literature. I  
 17 would interview people who are close to the blade.  
 18 Q You mean users?  
 19 A Well, first -- first Oldham --  
 20 Q Okay.  
 21 A -- you know. And then I would review  
 22 literature in the field. And then I would do an  
 23 analysis, come up with a recommendation.  
 24 Q Come up with what I would call a  
 25 candidate warning?

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1 A Yes.  
 2 Q And then --  
 3 A It may be more than one.  
 4 Q Okay.  
 5 A I might have alternatives.  
 6 Q All right. And then what would you do  
 7 after you had your alternative candidate warnings?  
 8 Would you do some testing of them?  
 9 A I would like to, yes.  
 10 Q And what else would you do, if  
 11 anything?  
 12 A Make mock-ups, and I guess that's it.  
 13 MR. KOTT: Mr. Walsh, let's go off the  
 14 record for a moment.  
 15 (Discussion off the record.)  
 16 MR. KOTT: On the record. I'm going to  
 17 stop my questioning now, but Mr. Walsh has agreed  
 18 that he will save for me seven to ten, which I may  
 19 not need, and if I don't need it, I will turn it  
 20 back to Mr. Walsh.  
 21 (Discussion off the record.)  
 22 BY MR. KOTT:  
 23 Q I'm going to continue on.  
 24 Do you know about when Sander sold the blade  
 25 in this case to Jingoli?

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1 A There is a series of purchase --  
 2 purchasing records. The specific blade, I don't  
 3 know if anybody knows exactly when the specific  
 4 blade was sold.  
 5 Q At the time period that Sander was  
 6 selling this type of blade to Jingoli, during that  
 7 time period as reflected in the records, do you know  
 8 what icons Black & Decker had on their wood-cutting  
 9 blades, calling your attention to a specific period  
 10 of time?  
 11 MR. PACKIN: Are you saying this blade  
 12 or all wood-cutting blades?  
 13 BY MR. KOTT:  
 14 Q At the time that Oldham was selling --  
 15 withdrawn.  
 16 At the time that Sander was selling Oldham  
 17 wood-cutting blades to Jingoli, during that time  
 18 period as reflected in the records, do you know what  
 19 pictorials or icons Black & Decker had on its  
 20 wood-cutting blades?  
 21 A All of Black & Decker's?  
 22 Q Any of them.  
 23 A Well, I certainly haven't seen all of  
 24 Black & Decker's wood-cutting blades so, you know,  
 25 from that standpoint, I can't say yes.

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1 Q Do you know what was on any of Black &  
 2 Decker's wood-cutting blades during that period of  
 3 time as far as pictorials and icons?  
 4 A Yes. There was one for safety glasses.  
 5 And the other one was -- oh, shoot. I'm drawing a  
 6 blank. There was two.  
 7 Q Read the owner's manual?  
 8 A Yes. Right. Right.  
 9 Q Are you aware --  
 10 A I'm sorry.  
 11 Q Are you aware of any other icons that  
 12 Black & Decker had on their wood-cutting blades at  
 13 the time that Sander sold these Oldham blades to  
 14 Jingoli?  
 15 A Well, I think you asked me that before,  
 16 didn't you? I -- I can't recall any.  
 17 Q Okay. Coming back to the Amana blade,  
 18 the one with the pictorial --  
 19 A Yes.  
 20 Q Was that on all the 14-inch Amana  
 21 blades or only on the 24-tooth?  
 22 A I don't recall without checking my  
 23 file.  
 24 Q I'm going to ask you to assume for  
 25 purposes of my question that it is only on the

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1 24-tooth, 14-inch blade, and not the other 14-inch  
 2 blades that had a different or higher number of  
 3 teeth.  
 4 Do you know why Amana would have done that?  
 5 MR. PACKIN: I object to the form.  
 6 THE WITNESS: I would be speculating.  
 7 BY MR. KOTT:  
 8 Q Did you do any investigation to  
 9 determine why Amana put it on certain of their  
 10 14-inch blades -- I'm sorry.  
 11 Do you have -- do you have any knowledge as to  
 12 why Amana on its website, had that pictorial for  
 13 certain of its 14-inch blades but not for others?  
 14 MR. PACKIN: I object to the form.  
 15 THE WITNESS: Do I have any knowledge?  
 16 BY MR. KOTT:  
 17 Q Right.  
 18 A Not from Amana.  
 19 Q Did you -- do you have knowledge from  
 20 anywhere else?  
 21 A No.  
 22 Q Did you do any investigation into that?  
 23 MR. PACKIN: I object to the form.  
 24 THE WITNESS: I looked at a lot of  
 25 14-inch blades.

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1 BY MR. KOTT:  
 2 Q No. My specific question was -- I  
 3 wasn't clear. My fault.  
 4 Did you do any investigation as to why --  
 5 assuming Amana only put it on the 24-tooth, 14-inch  
 6 blade, did you do any investigation as to why they  
 7 only put it on the website for that blade --  
 8 MR. PACKIN: I object to the form.  
 9 THE WITNESS: No.  
 10 BY MR. KOTT:  
 11 Q Do you agree that lettering on a  
 12 product should be of a size that enables a person  
 13 with normal vision, including corrective vision, to  
 14 read the safety sign or a label message panel text  
 15 at a safe viewing distance from the hazard?  
 16 A Yes.  
 17 Q Do you know where I was reading from  
 18 when I read that?  
 19 A That -- that comes out of the standard.  
 20 Q ANSI Z535.4-2002?  
 21 A Yeah.  
 22 Q Under ANSI Z535.3 or .4, are pictorials  
 23 required to be tested?  
 24 A The requirement -- under?  
 25 Q Yes.

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1 A Under certain circumstances, yes.  
 2 Q And which is it? Is it both of those  
 3 standards or just one of them?  
 4 A I can't remember whether it is .3 or  
 5 .4.  
 6 Q What are the circumstances where  
 7 pictorials are required to be tested?  
 8 A If you are going to rely solely on the  
 9 pictorial to transmit your message. You are not  
 10 going to accompany any -- any text.  
 11 Q And does the ANSI standard lay out a  
 12 protocol for the testing?  
 13 A Yes, yes.  
 14 Q In your opinion, should the Oldham  
 15 blade have a warning of some sort, pictorial or  
 16 otherwise, for the user to read the owner's manual?  
 17 MR. PACKIN: I object to the form.  
 18 THE WITNESS: Well, of course, that's  
 19 misleading because it implies that there is an  
 20 owner's manual for the blade.  
 21 BY MR. KOTT:  
 22 Q Okay. Let me try --  
 23 MR. PACKIN: Let him finish.  
 24 Go ahead.  
 25 MR. KOTT: He is going to tell me if I

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1 interrupt, him, Barry. You don't have to do that.  
 2 That's why I asked him before --  
 3 MR. PACKIN: You don't need someone to  
 4 tell you you're interrupting when a man's talking  
 5 and you start talking over him.  
 6 So if you are not finished, you may finish  
 7 your answer.  
 8 THE WITNESS: I'm sorry. Can you  
 9 refresh -- repeat the question?  
 10 MR. PACKIN: Please don't do that  
 11 again.  
 12 BY MR. KOTT:  
 13 Q Yeah. In your opinion -- in your  
 14 opinion, should the Oldham blade have a warning  
 15 telling the person to read the manual for the  
 16 machine that the Oldham blade is going to be put on?  
 17 A Sure.  
 18 Q Why?  
 19 A It's a -- it furthers the cause of  
 20 safety.  
 21 Q How does it further the cause of  
 22 safety?  
 23 A Because in the -- there may be  
 24 something in the owner's manual that has a bearing  
 25 on the application of this blade to that machine.

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24



<p style="text-align: right;">Page 94</p> <p>1 Q In connection with the facts of this</p> <p>2 case, is there something in the Stihl owner's manual</p> <p>3 that has a bearing on the application of the Oldham</p> <p>4 blade to the cut-off machine?</p> <p>5 A Yes.</p> <p>6 Q What is that?</p> <p>7 A Don't use it.</p> <p>8 Q And that you understand to be a safety</p> <p>9 warning?</p> <p>10 A Yes.</p> <p>11 Q Have you done a hazard analysis of the</p> <p>12 Oldham blade in this case?</p> <p>13 A Yes.</p> <p>14 Q What is a hazard analysis?</p> <p>15 A Well, it would be an analysis to see</p> <p>16 what hazards are associated with the -- with the</p> <p>17 blade and its use.</p> <p>18 Q And would some of those hazards be the</p> <p>19 ones that you talked about before where you</p> <p>20 inventoried the foreseeable uses and the foreseeable</p> <p>21 misuses for the blade?</p> <p>22 A Yes.</p> <p>23 Q And would some of those hazards also</p> <p>24 involve the materials being cut, meaning concrete or</p> <p>25 steel?</p>	<p style="text-align: right;">Page 96</p> <p>1 Q And when you referred to the kickback</p> <p>2 risk, that is the work piece coming back and</p> <p>3 striking the operator?</p> <p>4 A Yes.</p> <p>5 MR. KOTT: How much time is left on the</p> <p>6 tape?</p> <p>7 VIDEO SPECIALIST: Ten minutes.</p> <p>8 MR. KOTT: Why don't we break for</p> <p>9 lunch?</p> <p>10 Is that okay, Mr. Growney, with you?</p> <p>11 THE WITNESS: Sure.</p> <p>12 MR. KOTT: Okay. Thank you.</p> <p>13 MR. PACKIN: Back in about an hour?</p> <p>14 MR. KOTT: Yup.</p> <p>15 (Luncheon recess.)</p> <p>16 VIDEO SPECIALIST: Back on the record.</p> <p>17 BY MR. WALSH:</p> <p>18 Q Good afternoon, Mr. Growney.</p> <p>19 A Good afternoon.</p> <p>20 Q The last -- according to my notes, the</p> <p>21 last time you sat for a deposition in this case when</p> <p>22 we continued it was on, I think, June 15th?</p> <p>23 A I think so.</p> <p>24 Q Between now and June 15th, I want to</p> <p>25 just spend a couple of minutes seeing what, if any,</p>
<p style="text-align: right;">Page 95</p> <p>1 A Yes.</p> <p>2 Q What other hazards would be applicable,</p> <p>3 or would there be any other hazards that we haven't</p> <p>4 already talked about today?</p> <p>5 A None comes to mind at this moment.</p> <p>6 But then I recall you asked me that before,</p> <p>7 and then one occurred to me a little time later.</p> <p>8 So, yeah, there could be other problems, yes.</p> <p>9 Q Can you think of any now?</p> <p>10 A Yeah, misfeeding, forcing the blade --</p> <p>11 I'm sorry. Forcing the work onto the blade at a</p> <p>12 rate that it couldn't handle.</p> <p>13 Q Is that a risk that can occur on an</p> <p>14 expected use of this blade, meaning on a table saw,</p> <p>15 for instance?</p> <p>16 A Yes.</p> <p>17 Q And what's the risk of injury there?</p> <p>18 Is that a kickback risk?</p> <p>19 A Depends. Could be a kickback risk or</p> <p>20 it could be a -- an inadvertent contact.</p> <p>21 Q Inadvertent contact with what?</p> <p>22 A Well, in other words, the -- if the</p> <p>23 operator is attempting to force the material through</p> <p>24 the saw, and they are pushing harder than it can</p> <p>25 take, and your hands slip and go into the blade.</p>	<p style="text-align: right;">Page 97</p> <p>1 additional work you may have done on the case.</p> <p>2 Has there been any additional work that you</p> <p>3 have done on the case since June 15th?</p> <p>4 A Well, I reviewed the case.</p> <p>5 Q When you say you reviewed the case,</p> <p>6 what does that mean? What did you review?</p> <p>7 A I went back over my file.</p> <p>8 Q Okay. Did you read any depositions?</p> <p>9 A Started to a little bit.</p> <p>10 Q Okay. Can you recall specifically</p> <p>11 which ones you started to?</p> <p>12 A Kalsher, and my own, and I glanced over</p> <p>13 a number of the previous depositions.</p> <p>14 Q Okay. Now, can you recall any of the</p> <p>15 ones, the previous depositions that you glanced</p> <p>16 over, specifically which ones?</p> <p>17 A I may have looked at parts of the</p> <p>18 majority of the people that, you know --</p> <p>19 Q Do you know that you did or -- you say</p> <p>20 that you may have. Do you know that you --</p> <p>21 A I'm sorry. I interrupted you. Go</p> <p>22 ahead.</p> <p>23 Q No. You said may -- you may have. Do</p> <p>24 you know which ones you looked at?</p> <p>25 A I looked at Caldwell, Rivera, Bausman.</p>



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1 That's not the proper pronunciation of his name.  
2 Bausman; I guess it is. Canelli, DuBois. I'm  
3 trying to think of the rest of them. I didn't do it  
4 continuously. I did it on and off, on and off.

5 Q Did -- did you read them? Did you skim  
6 them? What did you do?

7 A Well, I would read through -- I would  
8 scan, look for things that I might consider to be  
9 relevant, and then maybe read that intentionally,  
10 you know, deliberately for comprehension. And then  
11 go on looking for highlights, other items that I  
12 might have been interested in.

13 Q Did you take any notes when you did  
14 this?

15 A No.

16 Q Have you submitted a bill since the  
17 last deposition?

18 A No.

19 Ah, yes. Yes. I submitted a bill for the  
20 last deposition.

21 Q Okay. And other than the deposition,  
22 for any work that you've done since the last one,  
23 have you submitted additional bills?

24 A No.

25 Q Do you have any bill pending now that's

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1 ready to go for the work you've done between the  
2 depositions?

3 A No. That was just me refreshing my  
4 memory. That's all.

5 Q Do you know how much time was spent  
6 doing that?

7 A No.

8 Q Have you -- since the last deposition,  
9 have you purchased any HDPE pipe?

10 A No.

11 Q Cut any HDPE pipe?

12 A No.

13 Q Seen anybody cut any HDPE pipe?

14 A No.

15 Q Have you gone, have you visited the  
16 accident site since the last deposition?

17 A No.

18 Q Have you communicated with the  
19 plaintiff since the last deposition?

20 A No.

21 Q Have you communicated with any of the  
22 plaintiff's coworkers since the last deposition?

23 A No.

24 Q The -- have you used a cut-off machine  
25 since the last deposition?

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1 A No.

2 Q Have you seen a dep -- have you seen a  
3 cut-off machine used since that last deposition?

4 A I -- I -- I think I did. I possibly  
5 did, yeah.

6 Q Where did you possibly see one?

7 A Passing a construction site, but it  
8 was -- I may have been in a car at the time.

9 Q Okay. Do you know what make or model  
10 it was?

11 A No.

12 Q Do you know what it was being used to  
13 do?

14 A No.

15 Q Do you know what kind of cutting  
16 attachment it had on it?

17 A No.

18 Q Have you assembled your Saw Stop table  
19 saw since the last deposition?

20 A No, I haven't gotten to that, either.

21 Q Have you done anything further to work  
22 on the Saw Stop table saw?

23 A Yes, I did. I cleared my -- the  
24 material off of it, did a little stuff. But other  
25 activities precluded my attentions.

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1 Q Okay. So it's still not fully  
2 assembled?

3 A Right.

4 Q Haven't used it yet?

5 A Right.

6 Q Okay. I want to focus a little bit --  
7 one of the -- one of the opinions in your report has  
8 to deal with what I'm going -- I don't think you've  
9 used this term necessarily. I'm going to use the  
10 term to generally describe what I'll call a  
11 proprietary arbor for a cut-off machine. An arbor,  
12 as I understand your opinion, would either be an  
13 enlarged arbor, some type of shaped arbor, or some  
14 type of drive mechanism for a cut-off machine that  
15 would incorporate a dowel, D-O-W-E-L, pin  
16 arrangement.

17 Now, that's what I understand from reading  
18 your -- your report are the three potential variants  
19 that you have considered in connection with this  
20 case. Am I correct in that, or are there additional  
21 ones?

22 A Three variants of the arbor.

23 Q Right.

24 A Yes, that's correct.

25 Q Okay. So either an enlarged arbor, a

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1 shaped arbor, or some dowel pin arrangement with the  
2 arbor?

3 A Yes.

4 Q Okay. Now, since our -- the last --  
5 well, have you -- at any point in time, have you  
6 actually done engineering drawings of either an  
7 enlarged arbor for a cut-off machine, a shaped arbor  
8 for a cut-off machine, or a dowel pin arbor for a  
9 cut-off machine?

10 A Well, from the previous depositions, I  
11 think you have some exhibits in which I have some  
12 sketches.

13 Q And have you done any prototypes of any  
14 -- from those sketches, have you done any type of  
15 prototypes of any of those types of dowel -- of  
16 those arbors?

17 A Well, no. The -- the, you know, the  
18 prototype for an enlarged arbor is just, you know,  
19 if the arbor is this size, you make it bigger, you  
20 know.

21 Q Well, let me ask you this. In --  
22 concept-wise, have you done any sort of testing on  
23 cut-off machine of any of the arbor designs that you  
24 have conceptualized, either an enlarged arbor, some  
25 type of shaped arbor, or a dowel pin arrangement?

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1 Any kind of testing?

2 A Well, you know, I really don't need to  
3 do testing on the enlarged arbor because, as I had  
4 mentioned earlier, there really is a concrete  
5 cut-off machine, a demo saw in the industry that has  
6 an arbor that is so large that it is impossible to  
7 put a ring -- I'm sorry, to put one of these  
8 carbide-tipped tooth, wood-cutting saw blades on it,  
9 and that's what I mentioned before, the ring saw.

10 Q Ring saw.

11 A That actually -- the existence of that  
12 saw demonstrates the feasibility of that design.

13 Q Okay. A ring saw, that's what you are  
14 talking about? The Partner brand ring saw?

15 A Yes.

16 Q Have you actually ever seen a ring saw?  
17 Have you held one in your hands?

18 A I've seen it. I haven't held it in my  
19 hands. I may have held it. It's possible.

20 Q Where did you see it?

21 A In a -- in a tool display.

22 Q Do you recall where that tool display  
23 was?

24 A Yes.

25 Q Where was that?

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1 A I think it was down in Meyer Hardware  
2 in Ridgefield, New Jersey.

3 Q Okay. Was it a Partner ring saw?

4 A I think so, yeah.

5 Q The -- and the ring saw you -- you saw,  
6 have you ever used a ring saw?

7 A No, I have not.

8 Q Have you ever seen a ring saw used?

9 A I'm trying to remember if there is a  
10 video of one in use. I can't -- I've seen so many  
11 videos, I can't remember clearly whether I've seen a  
12 Partner, the video of a Partner one in use. I may  
13 have.

14 Q Have you done any type of engineering  
15 analysis of a ring saw?

16 MR. PACKIN: I object to the form.

17 THE WITNESS: What do you mean? Well,  
18 what do you mean by that?

19 BY MR. WALSH:

20 Q Well, have you done any type of risk  
21 analysis, for example, of a ring saw?

22 A Well, only from the standpoint of -- of  
23 the same risk analysis for -- for these machines.

24 Q Well, tell me what you did to do the  
25 risk analysis of a ring saw.

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1 A Well, I considered the application, you  
2 know, how it was, in essence, the same application.  
3 The -- the ring saw has additional capabilities that  
4 these don't, but you can do -- what you could do  
5 with, say, the Stihl TS400, you can certainly do  
6 with a ring saw.

7 Q All right. It is your belief that a  
8 ring saw can do all the things that a TS400 does?

9 A I believe so, yeah.

10 Q Okay. The ring saw, are you familiar  
11 with what ring saws were designed to do?

12 A Well, they have an additional -- they  
13 have capacity for additional depth.

14 Q They were -- they were designed for  
15 deep-cutting concrete; correct?

16 A They have capacity design con-- to cut  
17 deep concrete, but they cut concrete. It doesn't  
18 have to be deep concrete.

19 Q I understand.

20 A It can be shallow concrete.

21 Q Can they cut asphalt?

22 A I can't recall.

23 Q Can they cut masonry material like  
24 bricks?

25 A My understanding is that they can cut

Page 106	Page 108
<p>1 masonry block.</p> <p>2 Q Can they cut stone?</p> <p>3 A I have -- I don't recall.</p> <p>4 Q Can they cut metals?</p> <p>5 A I don't recall.</p> <p>6 Q Can they cut reinforced concrete?</p> <p>7 A I can't recall.</p> <p>8 Q Do you know how the cutting speed of a</p> <p>9 ring saw compares to the cutting speed of a</p> <p>10 hand-held gasoline-powered cut-off machine?</p> <p>11 A Oh, I'm sure I looked at it, but I -- I</p> <p>12 forget it at this moment. The -- the important</p> <p>13 thing to me about the ring saw is the large arbor</p> <p>14 or, in essence, extending the arbor to its infinite</p> <p>15 diameter and still be able to cut concrete. There</p> <p>16 is no blade -- that's a demonstration of the</p> <p>17 feasibility of the design of the enlarged arbor</p> <p>18 precluding the installation of this commercially</p> <p>19 available, carbide-tooth wood-cutting saw blade.</p> <p>20 Q Can a ring saw cut HDPE pipe?</p> <p>21 A I don't know if it has ever been tried.</p> <p>22 Q Do you know what the cost comparison</p> <p>23 between a ring saw and a gasoline-powered hand-held</p> <p>24 cut-off machine is?</p> <p>25 A Yes.</p>	<p>1 A Catalogs, brochures, websites.</p> <p>2 Q From the manufacturers of the machines?</p> <p>3 A Yes.</p> <p>4 Q Okay. Have you, in any construction</p> <p>5 site you've ever been on, ever seen a ring saw in</p> <p>6 use?</p> <p>7 A No, I have not.</p> <p>8 Q The Partner who makes a ring saw, does</p> <p>9 Partner also make hand-held gasoline-powered cut-off</p> <p>10 machines?</p> <p>11 A Yes.</p> <p>12 Q Does it make more hand-held,</p> <p>13 gasoline-powered cut-off machines models or more</p> <p>14 ring saw models, or do you know?</p> <p>15 A I am uncertain which -- I think it -- I</p> <p>16 don't know. I don't know.</p> <p>17 Q Do you know whether there are reactive</p> <p>18 forces associated with the use of a ring saw?</p> <p>19 A Yes, there are.</p> <p>20 Q Okay. Have you -- have you seen any</p> <p>21 comparison of the injury statistics between use of a</p> <p>22 ring saw and use of a gasoline-powered cut-off</p> <p>23 machine?</p> <p>24 MR. PACKIN: I object to the form.</p> <p>25 THE WITNESS: Well, I don't know if</p>
Page 107	Page 109
<p>1 Q What are the comparisons?</p> <p>2 A Oh, it is probably about double.</p> <p>3 Q The ring saw is about double the cost?</p> <p>4 A Yes, yeah.</p> <p>5 Q How about the cutting attachments? Do</p> <p>6 you know how they compare, the cost of a ring saw</p> <p>7 and a cut-off machine?</p> <p>8 A They are more expensive.</p> <p>9 Q How much more expensive?</p> <p>10 A Maybe about double.</p> <p>11 Q Do you know what the maintenance</p> <p>12 requirements are in a ring saw compared to the</p> <p>13 maintenance requirements in the cut-off machine?</p> <p>14 A Well, I haven't looked at that.</p> <p>15 Q Do you have -- you have a guess as to</p> <p>16 how they compare?</p> <p>17 MR. PACKIN: I object to the form.</p> <p>18 THE WITNESS: I don't guess.</p> <p>19 BY MR. WALSH:</p> <p>20 Q Okay. Have you ever seen a ring saw</p> <p>21 anywhere in America on a construction site?</p> <p>22 A I've seen pictures of them on</p> <p>23 construction sites.</p> <p>24 Q Where -- what pictures have you seen of</p> <p>25 them on construction sites?</p>	<p>1 there is injury statistics for ring saw, or for that</p> <p>2 fact, for hand-held concrete cut-off saws, demo saws</p> <p>3 that we've been talking about in this case. Even if</p> <p>4 there was, it's -- even if they are available, I</p> <p>5 don't know if they would provide us with sufficient</p> <p>6 information to make a valid comparison because there</p> <p>7 are so many various -- variabilities; the age of the</p> <p>8 machine, the type of the cut, the -- the skill of</p> <p>9 the operator, the conditions under which it's cut,</p> <p>10 what type of blade the ring saw was using versus</p> <p>11 what type of a blades, blades plural, that's on the</p> <p>12 hand-held cut-off machines, cut-off saws, demo saws.</p> <p>13 So, I mean, this -- these statistics may -- may</p> <p>14 exist. This information may exist, but I cannot --</p> <p>15 there are so many variables involved with these</p> <p>16 things that I can't see such a comparison would</p> <p>17 be -- lead to valid conclusions. And -- and, you</p> <p>18 know, I'm sorry -- go ahead.</p> <p>19 Q Are -- are you aware -- do you know, do</p> <p>20 you have any information that would let you make a</p> <p>21 judgment whether more injuries occur with ring saws</p> <p>22 or more injuries occur with gasoline-powered cut-off</p> <p>23 machines?</p> <p>24 MR. PACKIN: I object to the form.</p> <p>25 You can answer.</p>

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<p style="text-align: right;">Page 110</p> <p>1 THE WITNESS: I don't know that such</p> <p>2 statistics exist. If they exist, I have the same</p> <p>3 question about validity, because you have -- once</p> <p>4 again, how many man hours are using hand-held</p> <p>5 concrete cut-off saws, demo saws, whatever you want</p> <p>6 to call them, versus ring saws? How many hours are</p> <p>7 using ring saws? And the occurrence of accidents</p> <p>8 that are reported or unreported, you know, how do</p> <p>9 you account for the unreported accidents? So I</p> <p>10 don't know if -- it seems to me that if that data</p> <p>11 exists, the existence of that data would be -- there</p> <p>12 are so many variables involved that it would not be</p> <p>13 -- give you a basis to make good comparisons.</p> <p>14 Q Do you know whether more severe</p> <p>15 injuries occur with cut-off machines, hand-held</p> <p>16 gasoline-powered cut-off machines or with ring saws?</p> <p>17 A Well -- well, once again, the -- that</p> <p>18 existence of that data, it may be there. It may be</p> <p>19 out there, but same rationale. All these variables</p> <p>20 would not necessarily give you any basis to make a</p> <p>21 comparison.</p> <p>22 Q Have you spoken to anybody in the</p> <p>23 construction industry about the relative utility for</p> <p>24 their jobs of a ring saw versus a hand-held</p> <p>25 gasoline-powered cut-off machine?</p>	<p style="text-align: right;">Page 112</p> <p>1 the tool show?</p> <p>2 A Yes, I have.</p> <p>3 Q Okay. And that's all, just the one</p> <p>4 unit?</p> <p>5 A That's -- yeah.</p> <p>6 Q Okay.</p> <p>7 A And I've -- I've seen a number of them</p> <p>8 for sale on the internet.</p> <p>9 Q Okay. But I'm talking about units that</p> <p>10 you've been in the physical presence of. And when</p> <p>11 you were in the physical presence of this machine, I</p> <p>12 take it, it was not -- I you think you told me this,</p> <p>13 it was not run; that's correct?</p> <p>14 A Yes.</p> <p>15 Q Was any part of it disassembled?</p> <p>16 A No. I don't believe so.</p> <p>17 Q Do you know whether there are</p> <p>18 unauthorized cutting attachments that can be mounted</p> <p>19 on that machine? In other words, cutting</p> <p>20 attachments not authorized by the manufacturer that</p> <p>21 can be mounted -- purchased and mounted on that</p> <p>22 machine?</p> <p>23 A Do I know?</p> <p>24 Q Uh-huh.</p> <p>25 A No. I would -- no, I don't know.</p>
<p style="text-align: right;">Page 111</p> <p>1 A No, I have not.</p> <p>2 Q Have you spoken to any -- do you know</p> <p>3 whether there are standards, safety standards that</p> <p>4 apply to the design of a ring saw?</p> <p>5 A Well, the same standard that applies to</p> <p>6 these hand-held cut-off -- concrete cut-off saws,</p> <p>7 demo saws would apply to them.</p> <p>8 Q You believe the ring saws are governed</p> <p>9 by ANSI standard B175.4?</p> <p>10 A If my recollection serves me correctly,</p> <p>11 I think so.</p> <p>12 Q Okay. What is it -- what is it in that</p> <p>13 standard or what is it in a ring saw that directs</p> <p>14 you to that conclusion?</p> <p>15 A Hand-held gasoline-powered -- unless</p> <p>16 there was an exception, and I'm trying to remember</p> <p>17 if I read an exception, and I can't -- I can't</p> <p>18 recall reading an exception, but it is hand-held,</p> <p>19 gasoline-powered, cuts concrete.</p> <p>20 Q The -- is it considered to be a</p> <p>21 high-speed machine?</p> <p>22 A Well, that's a relative term. I'm --</p> <p>23 I'm uncertain about that.</p> <p>24 Q And was there any -- on any of the</p> <p>25 machine -- have you seen one of these in person at</p>	<p style="text-align: right;">Page 113</p> <p>1 Q Do you know whether the machine that</p> <p>2 you looked at, did it have a UL certification</p> <p>3 certifying it as complying with any particular</p> <p>4 safety standard?</p> <p>5 A I don't have a recollection of that on</p> <p>6 the machine's label.</p> <p>7 Q Was the guard --</p> <p>8 A I may not have -- I may not have read</p> <p>9 the label.</p> <p>10 Q Was more of the cutting attachment</p> <p>11 exposed or less of it exposed than on a hand-held</p> <p>12 gasoline cut-off machine? In other words, was more</p> <p>13 of the cutting attachment guarded or less of the</p> <p>14 cutting attachment guarded on the ring saw?</p> <p>15 A Less was guarded.</p> <p>16 Q Okay. The -- do you know whether there</p> <p>17 are OSHA regulations governing the guarding systems</p> <p>18 on ring saws?</p> <p>19 A I think, by interpretation, the one</p> <p>20 OSHA regulation would be, yeah.</p> <p>21 Q Which one?</p> <p>22 A 29 CFR 1926.302.</p> <p>23 Q Is that -- is that the same -- is that</p> <p>24 the same standard that applies to the guarding</p> <p>25 systems on hand-held gasoline-powered cut-off</p>



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1 machines?

2 A I think so.

3 Q Okay. So under that standard, if that

4 applied to the ring saws, ring saws and cut-off

5 machines should have the same guard on them, should

6 they not?

7 A Yes.

8 Q Do they have the same guard on them?

9 A No.

10 Q Okay. The OSHA -- OSHA does have a

11 standard that dictates the guard that goes on a

12 gasoline-powered hand-held cut-off machine, does it

13 not?

14 A Yes.

15 Q And that standard is mandatory as to

16 employers using cut-off machines in the workplace;

17 is it not?

18 A Yes.

19 Q Do you know -- is it -- is it your

20 belief that if that standard applies to ring saws,

21 that the ring saw manufacturer in this case,

22 Partner, is violating the OSHA standard by producing

23 a different type of guard on the ring saw?

24 A Well, I haven't given that any

25 consideration.

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1 Q Okay. But in any event. It does

2 not -- the guard that you observed on a ring saw

3 would not comply with the OSHA standard mandating

4 the type of guard that must go on a hand-held

5 gasoline-powered cut-off machine; correct?

6 MR. PACKIN: Asked and answered.

7 THE WITNESS: Correct.

8 BY MR. WALSH:

9 Q Let's go back to the shaped arbor.

10 On a -- on a gasoline-powered cut-off machine,

11 when we are talking about -- and let me ask you

12 this. Are any of those three alternatives in your

13 view okay; that is, either a shaped arbor, or an

14 enlarged arbor or a pin? Can you have either one of

15 those or is one better than the others?

16 A Well, I would say the enlarged arbor

17 would be the primary one, because the design is

18 simpler. The other two are secondary.

19 Q All right. What in your view would be

20 the size arbor -- how big would the arbor have to be

21 in order for, in your view, for a hand-held

22 gasoline-powered cut-off machine to be reasonably

23 safe?

24 A Well, under the current design it would

25 have to be smaller than the -- the faces of the

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1 diameter of the -- smaller than the -- the inner

2 diameter of the faces of the amount of the washer

3 that clamps it.

4 Q The flanges or thrust washers, as they

5 are sometimes called?

6 A Yes. Yes.

7 Q All right.

8 A In other words, whoever would make that

9 decision would -- would decide which one -- what one

10 would be -- what diameter would be the diameter to

11 use. You would -- I mean, you have a multitude of

12 diameters. You have, you know, all across the --

13 the spectrum. So you take it and you review it, and

14 decide which one would be the best one.

15 Q Have -- that's my question to you.

16 Have -- have you done that? Have you decided

17 what the -- what you would recommend, what the --

18 in -- in order for the machine to be appropriately

19 safe, what diameter arbor would you say would be

20 necessary on a hand-held gasoline-powered cut-off

21 machine?

22 A Well, no, I haven't done that because

23 there is such a variety. In other words, if I

24 picked inch and some -- let's just say I picked

25 1.862-inches. Well, you know, somebody else could

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1 pick another one and it could be just as valid.

2 What you are looking for is a diameter that's not

3 used on anything else. So, as you mentioned, a

4 proprietary. So in other words, what you are really

5 looking for is a proprietary diameter, so that you

6 just don't happen to coincide with a diameter in

7 use, that's currently in use on saw blades.

8 Q Right. And in the -- is there any,

9 from your -- to your knowledge, is there any

10 relationship between the size of the flanges on a

11 cut-off machine and the size of the arbor hole that

12 has to be maintained? Is there any relationship

13 between the size of the flanges and the size of the

14 arbor hole?

15 A I'm not sure if I understand what you

16 are saying.

17 Q You told me you could -- you could take

18 out the arbor to various sizes as long as it was

19 somewhat smaller than the outer diameter of the

20 flanges; correct? Did I understand you correctly?

21 A Yes.

22 MR. PACKIN: I think he said the inner

23 diameter of the flanges.

24 BY MR. WALSH:

25 Q Smaller than the flanges. Somewhat

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30

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1 smaller than the flanges.

2 A Right.

3 Q Do you -- do you know whether, from a  
4 design and safety standpoint, there is any necessary  
5 relationship between what size the arbor can be in  
6 relation to the size of those flanges?

7 A Well, there are some -- some  
8 limitations. I mean, you've got to -- but, I mean,  
9 those -- that's typical design problems. That's --  
10 that's what a design engineer does. He just takes  
11 and manipulates the -- the particular dimensions to  
12 suit -- to attain what he is -- he is trying to get  
13 at.

14 Q Do you know what those -- what those  
15 relationships are between the flanges and the arbor  
16 size in a -- in a case of a hand-held  
17 gasoline-powered cut-off machine?

18 A You've got to be able to transmit the  
19 -- the driving torque, and you also got to be able  
20 to have the securing nut secured.

21 Q Do you -- well, for example, in any of  
22 the standards, either in the standards pertaining to  
23 abrasive wheels, or the standards applying to  
24 gasoline-powered cut-off machines, is there any  
25 relationship specified between the size of flanges

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1 and the size of the arbor?

2 A Yes, there is. Yes, there is.

3 Q What is that? In which of those  
4 standards?

5 A It's -- it's ANSI B7.1, and it does --  
6 it does describe the limitations.

7 Q Do you know what those limitations are?

8 A I have looked at it a number of times  
9 and I can't think of it off the top of my head. I  
10 -- I know I have the standard here with me. I -- I  
11 don't want to guess because I'll guess wrong. I  
12 have an inclination to say a figure, but I would  
13 have to check it before I --

14 Q Okay. Is the -- and if we have time,  
15 we will -- we'll take a look at that.

16 But what's the purpose? Do you know what the  
17 purpose of that relationship is? Why -- why is that  
18 specified in the standard; do you know?

19 A It is to maintain the holding power.

20 Q I'm sorry?

21 A Maintain the holding power of the  
22 thrust washers.

23 Q All right. Does it have anything to do  
24 with the dissipation of stress on the wheel?

25 A Oh, yeah, yes.

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1 Q And do you know, based on that  
2 relationship, is there -- what is the largest size  
3 arbor that you possibly could use on a 14-inch  
4 machine without seriously undermining the utility of  
5 the machine?

6 MR. PACKIN: I object to the form.

7 You can answer.

8 THE WITNESS: I -- could you repeat  
9 that question, please?

10 BY MR. WALSH:

11 Q On a 14-inch cut-off --  
12 gasoline-powered cut-off machine, what's the largest  
13 size arbor that you could use based on those design  
14 limitations in the standards and still -- without  
15 seriously undermining the utility of the cut-off  
16 machine?

17 MR. PACKIN: I object to the form,  
18 again, but you can answer.

19 THE WITNESS: Okay. I know I have  
20 looked it up, and it doesn't come to my mind at this  
21 moment.

22 BY MR. WALSH:

23 Q All right. Let me ask you this then.

24 In 2003, I want you -- I want you to think of  
25 the year 2003. How many saw blade manufacturers do

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1 you know that were manufacturing 12- or 14-inch  
2 carbide-tipped saw blades?

3 A Did I know, personally?

4 Q Yeah.

5 A Well, I -- I would have to look it up.  
6 I actually do have a reference.

7 Q What reference do you have with you?

8 A Yeah, it's a -- it's a -- it -- it has  
9 the saw blade industry. I -- I can't remember the  
10 name of it. It is something I referred to before.

11 Q Would you get that for us? Is that  
12 here with you?

13 A I believe so.

14 Q Would you get that for us?

15 A All right. I'm sorry. I only have  
16 2002.

17 Q All right. Well, that's fine. Let's  
18 use 2002. Can I see the document?

19 MR. WALSH: Can we get this marked  
20 as -- what's the next exhibit, do you know?

21 (Growney-62 Saw blade and hand saw  
22 manufacturing: 2002 booklet marked for  
23 identification.)

24 BY MR. WALSH:

25 Q What we marked as 62 is -- it's

31

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1 entitled: Saw blade and hand saw manufacturing,  
2 2002, and apparently it's from the US Census Bureau;  
3 is that correct?

4 A Yes.

5 Q When did you -- when did you get this  
6 particular document?

7 A Quite some time ago.

8 Q All right. I mean, was it prior to  
9 your last set of depositions, between your last set  
10 of depositions and now, and was it --

11 A More than -- prior to my last set of  
12 depositions.

13 Q Okay. Can you -- can you tell me --  
14 can you show me in here, direct me to where the  
15 section would be that would -- identifies saw blade  
16 manufacturers who in 2002 were manufacturing 14-inch  
17 -- 12- or 14-inch carbide-tipped saw blades?

18 A Well, I'm sorry. This doesn't list  
19 them by name. Actually, it has -- it's the product  
20 statistics.

21 Q Does it tell you how many 12-inch or  
22 14-inch carbide-tipped saw blades were being  
23 manufactured and sold?

24 A No, it doesn't.

25 Q What does it tell you -- what does it

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1 manufacturing 12-inch or 14-inch carbide-tipped saw  
2 blades. I asked you about 2003 specifically, but  
3 even if we only go 2002, 2003, that's fine, too. Do  
4 you know what manufacturers were making those blades  
5 at that point in time?

6 A Well, I believe Amana AEG were. There  
7 are a number of sources that -- for 12- and 14 inch  
8 wood-cutting circular saw blades that may be -- may  
9 not manufacture them. They may have somebody else  
10 manufacture for them. So -- but anyhow, Bosch falls  
11 into that category. Amana. I said Amana. I'm  
12 sorry. Forrest. Vermont, Vermont America. There  
13 are a couple local -- another local one besides  
14 Forrest. There is -- those are the ones that come  
15 to my mind at this point.

16 Q Okay. So -- do you -- do you have --  
17 do you know in total how many manufacturers, even if  
18 you can't name them, do you know the number of  
19 manufacturers that were selling, manufacturing and  
20 selling in the United States, 12- and 14-inch  
21 carbide-tipped saw blades in 2003?

22 A Could you repeat the question?

23 Q Even if you can't name them, do you  
24 know how many manufacturers were making and selling  
25 12- and 14-inch carbide-tipped saw blades in the

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1 tell you?

2 A Well, it gives you -- woodworking power  
3 saw blades and accessories, power circular blades  
4 for woodworking, solid tooth. Powered circular saw  
5 blades for working insert tooth. Power -- okay.

6 And then it gives you number of companies with  
7 shipments of a hundred thousand dollars or more.

8 Q Of saw blades?

9 A In these categories, yeah.

10 And then, also, it has all other hand-operated  
11 saws.

12 Q Now, are these -- is this simply  
13 domestic production, that is US production, or does  
14 this include all of them being sold in the US, or do  
15 you know?

16 A I did look that up, and it is explained  
17 in here at some time, some place.

18 Q That's all right, Mr. Gowney. If it  
19 is in there, I will take a look at it later. We  
20 don't need to waste time looking for that, but you  
21 believe that information is in there; correct?

22 A Yes.

23 Q All right. Now, let's go back to my  
24 original question which is, do you know -- do you  
25 know which saw blade manufacturers were

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1 United States in 2003?

2 A Not with accurate precision.

3 Q Do -- do you have a range?

4 A Well, I know of seven or eight, I  
5 guess.

6 Q Do you know of any major saw blade  
7 manufacturer that was not making a 12- or 14-inch  
8 carbide-tipped saw blade in 2003?

9 MR. PACKIN: I object to the form.

10 You can answer.

11 THE WITNESS: Yeah. I left out Oldham  
12 in your previous question.

13 BY MR. WALSH:

14 Q Okay.

15 A I've looked through a number of  
16 catalogs for a number of different manufacturers for  
17 a number of different distributors, and actually  
18 what I was looking for was 14 inch. So when you  
19 throw the 12 inch there, you kind of like skewed the  
20 results.

21 Q All right. Well, let's go on 14 inch.  
22 Let's just look at 14 inch.

23 A Okay. And there were a lot of  
24 manufacturers that I anticipated finding 14-inch  
25 blades did not offer that for sale, or did not list

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32

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1 them in the catalog. I -- I don't remember the  
 2 names.  
 3 Q Did you have any 2000 -- catalogs from  
 4 2003?  
 5 A Yes.  
 6 Q What catalogs did you have from 2003?  
 7 A I believe I have Bosch. I have -- one  
 8 second.  
 9 Q Would you pull out whatever ones you do  
 10 have with you from 2003 or earlier?  
 11 (Discussion off the record.)  
 12 (Growney-63 Grizzly catalog marked  
 13 for identification.)  
 14 (Growney-64 Milwaukee catalog marked  
 15 for identification.)  
 16 (Growney-65 Diamond Products catalog  
 17 marked for identification.)  
 18 (Growney-66 Makita catalog marked for  
 19 identification.)  
 20 (Growney-67 Steel Demon catalog  
 21 marked for identification.)  
 22 BY MR. WALSH:  
 23 Q We've marked exhibits numbered 63  
 24 through 67 as various materials you took out of your  
 25 file. And in response to my request that you look

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1 for any catalogs you had which would indicate which  
 2 manufacturers that were selling 14-inch or 12-inch  
 3 carbide-tipped saw blades in 2003 or earlier;  
 4 correct?  
 5 A Yes.  
 6 Q Okay. Now --  
 7 A Had I known you had that interest, I  
 8 would have gone through my personal library and  
 9 pulled out all these catalogs from 2003. I have  
 10 more. You know, but --  
 11 Q Right. Can we agree that in 2003 there  
 12 were a number of different saw blade manufacturers  
 13 that were manufacturing and selling either 12- or  
 14 14-inch carbide-tipped saw blades?  
 15 A Yes.  
 16 Q Now, what arbor sizes could you buy 12-  
 17 or 14-inch carbide-tipped saw blades off the shelf,  
 18 so to speak, what various arbor size were available  
 19 in 2003?  
 20 A Well, probably the most common one was  
 21 one inch. You could probably get some other sizes,  
 22 but once you got away from one inch, the -- the  
 23 available sources for sizes other than one inch just  
 24 shrunk right down.  
 25 Q Well, let me ask you this. Were you --

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1 were you aware that in 2003 there were  
 2 carbide-tipped saw blades in that -- in those two  
 3 sizes with four-inch arbor holes?  
 4 A Well, probably, because there are  
 5 certain saws that take very large diameters, such as  
 6 a gang saw, and used to cut wood. That's why I had  
 7 said that you select a proprietary size, because you  
 8 would survey the market. Because, yeah, there are  
 9 gang saws, and they take large diameters, and  
 10 because the saws need that, so the blades need that.  
 11 But you pick a size that's -- that's proprietary.  
 12 Q Are -- were you -- do you -- were you  
 13 aware that there were saw blades available in 12-  
 14 and -- and 14-inch carbide-tipped saw blades  
 15 available with arbors of 80-millimeters?  
 16 MR. PACKIN: I object to form.  
 17 You can answer.  
 18 THE WITNESS: I'm sorry, I can't  
 19 convert the 80 millimeters into inches in my head  
 20 anymore. But most likely those are European gang  
 21 saws.  
 22 BY MR. WALSH:  
 23 Q 70 millimeters?  
 24 A Well, once again, it would not surprise  
 25 me.

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1 Q Three inches?  
 2 A It would not surprise me, no, because  
 3 there are plenty of gang saws on the commercial  
 4 market.  
 5 Q Two-and-a-half inches?  
 6 A Could be.  
 7 Q Two inches?  
 8 A That's possible.  
 9 Q Inch-and-three-quarters?  
 10 A I don't doubt it.  
 11 Q Inch-and-a-half?  
 12 A Yes.  
 13 Q Inch-and-a-quarter?  
 14 A Yeah. But these saws that have  
 15 these -- these arbors, they are specialized saws.  
 16 They are commercial saws, or they are industrial  
 17 saws with these sizes. They go into, like -- they  
 18 fall under the ANSI O1.1 committee, which I'm on.  
 19 And these are -- those blades are not readily  
 20 available through -- to the consumers. You can't  
 21 walk down to the local hardware store or the local  
 22 Home Depot and get a 14-inch diameter blade with a  
 23 four-inch ID. That's just not available. You ask  
 24 them for it. They won't get it.  
 25 Q Well, let me ask you this. Can --

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1 when's the last time you tried to buy a -- a 14-inch  
2 carbide-tipped saw blade with a, let's say, with a  
3 four-inch arbor? When's the last time you tried to  
4 buy one?

5 A I never did.

6 Q Have you ever tried to buy one with  
7 three inches?

8 A No. Because I -- I -- because I am  
9 familiar with the application. I know the  
10 application, you know. And I -- I know the market  
11 that it's in. And I -- I know where it goes and  
12 what you have to do.

13 Q What tooth configurations were those  
14 blades available in in 2003?

15 A They are probably available in any  
16 tooth you want. I don't know.

17 Q How about number of teeth?

18 A They are -- I'm sure there are a  
19 predominant size. Those kind of saws, the gang saws  
20 usually cut, commonly, commonly cut rough wood to be  
21 refinished, rehanded, processed.

22 Q In 2003, were major saw manufacturers  
23 custom boring arbors? Did they have service  
24 available to custom bore arbors to any size, or  
25 shape, or keyhole or pinhole that a customer wanted?

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1 MR. PACKIN: Saw manufactures?

2 BY MR. WALSH:

3 Q Yes. Saw blade manufactures.

4 A It would not surprise me. Sure.

5 Q All right. In -- in 2003, could you  
6 buy off the shelf, could you buy reducing bushings  
7 that would fit anything from four inches or greater  
8 arbor size down to whatever arbor size you wanted to  
9 put the blade on?

10 MR. PACKIN: Object to the form.

11 THE WITNESS: Off the shelf?

12 BY MR. WALSH:

13 Q Yes, sir.

14 A I doubt it. You know, custom made,  
15 that's a different story. Off the shelf, you  
16 know -- you know, no. You know, if you had an -- an  
17 inch -- like I said before, 1.8635 whatever, and you  
18 had a blade with a -- a -- a 2 -- 2.425 bore, no,  
19 you couldn't buy that thing off the shelf. No.  
20 That -- that -- that's not available. You know,  
21 could you get it made? You can get anything made.  
22 You can get anything made to bypass anything.  
23 That's -- that's not the point. The point is -- is  
24 to -- is to preclude those types of products to be  
25 readily available to the consumer market who doesn't

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1 know any better.

2 If you are going to say that because somebody,  
3 someplace, somewhere can bypass this, hence, we  
4 should never do it, is not a valid position because  
5 what you are doing is -- is you're -- you are taking  
6 the remotest possibility that it would be  
7 circumvented, and you are sacrificing the safety and  
8 protection that you are going to afford the average  
9 consumer of these machines who don't know that it's  
10 unsafe to install these blades, wood -- wood-cutting  
11 tooth blades on these machines. So it's -- it's --  
12 your willingness to sacrifice the safety of the  
13 majority of the -- of the population who would be  
14 tempted to do this because maybe somebody in some  
15 far-off place or someplace we don't know about it,  
16 can bypass it. That's not a valid position.

17 Q Let me ask you this. Do you know, do  
18 you have any idea what reducing bushings were  
19 available from all of the major saw manufacturers in  
20 2003? Do you know what they were?

21 A Do I know all of them?

22 Q Do you know any of them?

23 A Reducer bushings are just like washers.  
24 Washers are -- you can make any size you want. They  
25 are -- they are -- they are just, you know, that's a

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1 -- as a matter of fact, I had some association with  
2 somebody who at one time made washers. They are not  
3 difficult to make. The question is how cheap can  
4 you make them. That's the only question.

5 Q My -- my question to you is, if in 2003  
6 I picked up a -- a catalog from a -- any of the  
7 major saw blade manufacturers, would I expect to see  
8 a variety of reducing bushings in a variety of sizes  
9 commercially available?

10 A I don't know what you would expect to  
11 see.

12 Q Okay. You don't know whether those --  
13 those catalogs had them or didn't have them in 2003?

14 MR. PACKIN: That wasn't what he said,  
15 but you can answer the question.

16 THE WITNESS: Well, the consumer --  
17 what's in the consumer market -- first of all, these  
18 types of blades that are installed on these  
19 hand-held concrete cut-off machines, the demo saws,  
20 they are a very special blade. They have a very,  
21 very limited application. Now, you are going to  
22 tell me you are going to take this limited blade and  
23 you are going to go and you are going to either  
24 manufacture it with a -- a different diameter, which  
25 then that just shrinks right down the size of the

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1 market, or are you are going to say that I'm going  
2 to take a 14-inch carbide-tooth saw blade made for a  
3 radial arm saw, and I'm going to go and have it  
4 bored out, custom bored? To do that, you virtually  
5 pay the same price for a blade that you could buy  
6 the blade, for the price of the blade. It's not --  
7 it's uneconomical. The market is so small that,  
8 yeah, if you want to pay the custom price for the  
9 machine set up, in other words, the machine shop  
10 price to do it, yeah, you could do that.

11 BY MR. WALSH:

12 Q Do you know what the price was in 2003  
13 for custom boring a -- a carbide-tipped saw blade?  
14 Do you know what the major manufacturers were  
15 charging in 2003 to custom bore a blade?

16 MR. PACKIN: I object to form.

17 You can answer.

18 THE WITNESS: Well, the point being, is  
19 that I'm talking about somebody who goes down to the  
20 local hardware store and he buys -- not even a local  
21 hardware store. You got all of these things.  
22 They're -- they're an uncommon blade. And you are  
23 going to turn around and say I want to use it on the  
24 hand-held concrete cut-off saw, so I'll go and I'll  
25 get it bored out. You know, you go to a machine

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1 shop, you are not going to get it. You know, you're  
2 -- you're -- the price is just out of sight.

3 BY MR. WALSH:

4 Q My -- my -- my question is, do you --  
5 have you looked -- have you looked at a major saw  
6 blade manufacturer from 2003 and seen whether --  
7 what custom boring service they were offering, and  
8 what they were charging for those custom boring  
9 services? Have you looked at any of those?

10 A No. But based on my experience, I know  
11 that you would be talking about a quantity setup.  
12 In other words, you would be -- in other words, from  
13 my -- my engineering experience, to do something  
14 like that, to get the price down reasonable, you got  
15 to do a quantity -- quantity run. So -- so if you  
16 are talking about one saw blade, that's one thing.  
17 If you are talking about a hundred saw blades,  
18 that's a different thing.

19 Q Would it surprise you that in 2003 you  
20 could overnight any -- in quantities of one saw  
21 blade, you could overnight a custom bored blade for  
22 \$10?

23 MR. PACKIN: Object to form.

24 BY MR. WALSH:

25 Q Would that be a surprise to you?

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1 A Can I see your reference?

2 Q Just ask -- just answer my question.  
3 Would that be a surprise to you?

4 A Well, I would like to see the source.  
5 I would like to see all the facts about it.

6 MR. PACKIN: I object to form.

7 BY MR. WALSH:

8 Q Would it be a surprise to you that you  
9 could call up -- you could order and overnight a 12-  
10 or 14-inch carbide-tipped saw blade custom bored to  
11 any size, shape you wanted for 10, \$12?

12 MR. PACKIN: I object to form, and  
13 asked and answered twice.

14 BY MR. WALSH:

15 Q Let me ask you this since you don't  
16 seem to want to answer that question.

17 A Well, I'm -- I'm -- I'm --

18 MR. PACKIN: Whoa, whoa, whoa, I object  
19 to that colloquy, too.

20 BY MR. WALSH:

21 Q Are you going to answer?

22 A Yeah, well, I can't see a 14-inch blade  
23 being overnighed across the United States for \$10.  
24 No. In other words, the -- is that what you are  
25 telling me, you know?

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1 Q Let me ask you -- let me ask you this.

2 Do you -- do you understand, do you  
3 acknowledge that in -- that in 2003, major saw blade  
4 manufacturers were custom boring 14- and 12-inch  
5 carbide tip blades in any size or shape a customer  
6 wanted, or custom boring, reducing borings in any  
7 size that a -- that a -- that a customer wanted?  
8 Do you -- do you know -- do you understand that? Do  
9 you know that?

10 MR. PACKIN: I object to the form.

11 THE WITNESS: What are you asking me?

12 BY MR. WALSH:

13 Q I'm just asking you if you acknowledge  
14 the fact that in 2003 that all the blade -- the  
15 majority of the blade manufacturers providing 14-  
16 and 12-inch blades would custom bore them and  
17 produce custom either off the shelf or custom  
18 reducing bushings to any size a customer wanted?  
19 Were you aware of that?

20 MR. PACKIN: I object to the form. He  
21 can answer.

22 BY MR. WALSH:

23 Q Are you aware of that?

24 A In principle, yes.

25 Q Is there anything -- anything about



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1 boring out an arbor hole that is other than a tool  
2 shop or machine shop exercise?

3 MR. PACKIN: I object to the form.

4 THE WITNESS: Well, yeah. You've got  
5 to make sure you get it centered.

6 BY MR. WALSH:

7 Q I understand that.

8 A Well, you know, you understand it.

9 Maybe other people don't understand it. Maybe you  
10 don't understand the -- the -- the risk that's  
11 involved. In other words, if you don't get it  
12 centered, well then you are running it off center,  
13 and then that becomes some of the hazards that  
14 Mr. Kott was referring to.

15 Q Very dangerous; correct?

16 A Yeah, that's correct. That's right.  
17 It's like -- it's like running a blade without a  
18 spacer, a reducing bushing.

19 Q Okay. And if I'm a -- if I'm a -- if  
20 I'm a construction company with a machine shop, and  
21 I have an inventory of composite wheels, and I have  
22 an inventory of carbide-tipped saw blades, and I  
23 want to fit them, I can -- I can go send them, my  
24 machine shop, and in a few minutes they can bore  
25 them out. They may not get it right, but they can

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1 bore it out; correct?

2 MR. PACKIN: Object to form.

3 THE WITNESS: No. Your -- your -- your  
4 assumption is not correct. First of all, you need a  
5 machine to accommodate 14-inch diameter, that you  
6 can turn it. No. And I doubt that you are going to  
7 find a construction company with a machine shop that  
8 can do that. That's -- that's -- that's an example  
9 of what I was talking about before. Taking this --  
10 carrying it to this logical extreme that somebody,  
11 someplace is going to possibly do this. And so  
12 since somebody may be able to do it, we will not go  
13 and give the general population the benefit -- the  
14 safety benefit of the proprietary diameter arbor so  
15 they cannot install commercially-available  
16 wood-cutting, carbide-tipped wood -- wood-cutting  
17 saw blades on it. That's -- that's -- that's -- you  
18 know, that's not a reason. That's an excuse.

19 BY MR. WALSH:

20 Q Do you know any -- do you know any saw  
21 that's out there, hand held or otherwise, do you  
22 know of any saw that a saw blade or a cutting  
23 attachment that shouldn't be on there, can't be  
24 potentially put on the saw?

25 A You can do anything -- oh, I'm sorry.

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1 MR. PACKIN: I object to the form.

2 You can answer.

3 BY MR. WALSH:

4 Q Do you know of any saw of any kind that  
5 where -- where that -- where you can attach an  
6 unauthorized cutting attachment to it?

7 MR. PACKIN: Object to the form.

8 THE WITNESS: Well, once again, if  
9 the -- if the -- the bore of the blade is smaller  
10 than the arbor diameter, you can't attach it unless  
11 you do something else. So that's the whole  
12 principle behind the larger arbor. You know, you --  
13 you know, you -- there is a plethora of a one-inch  
14 diameter hole, arbor hole, 14-inch diameter saw  
15 blades.

16 BY MR. WALSH:

17 Q Let me ask you this. Give me one  
18 machine, woodworking machine -- let me -- let me ask  
19 you this.

20 Is there any woodworking machine subject to  
21 ANSI 01.1 that's subject to that standard that has a  
22 specialized arbor on it to prevent blades that  
23 shouldn't be mounted on it from being mounted?

24 A Well, I can't think of any requirement  
25 as such on that. Do I know if there is any

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1 machines?

2 Q Yes.

3 A You know, the fact that I don't know  
4 them doesn't mean they don't exist. I don't know.

5 Q Okay.

6 A And there is no ANSI requirement as you  
7 called for.

8 Q Right. There -- and -- but I'm asking  
9 you more broadly than that. Do you know of any  
10 machine, do you know of any machine that's out  
11 there, saw, that has a specially designed arbor that  
12 will not allow an unauthorized cutting attachment to  
13 be attached to it?

14 A Well, as we mentioned earlier, there is  
15 a number of shaped arbors, and there is a number of  
16 pin-drive arbors, designs have been around for a  
17 long, long time. I probably have the catalog here  
18 that shows them. So those, if you have a pin drive,  
19 and you go to put a blade on it, and the blade  
20 doesn't have a hole for the pin, or the hole  
21 diameter is the wrong size, too small, or the  
22 location, it may be the right size but the location  
23 from the center is wrong, you can't put it on  
24 without doing something, you know. In other words,  
25 if you want to cut the pin off, you know, use the

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36



<p style="text-align: right;">Page 142</p> <p>1 blade, if you want to do something to the blade.</p> <p>2 Q You can drill a hole in the blade;</p> <p>3 correct?</p> <p>4 A You know, that's a potential.</p> <p>5 Q And let me ask you this. My question</p> <p>6 was a little more focused than that. Do you -- do</p> <p>7 you know -- is there any saw you know of that, using</p> <p>8 an unauthorized attachment on it, does not make it</p> <p>9 more dangerous?</p> <p>10 MR. PACKIN: I object to the form.</p> <p>11 THE WITNESS: Well, the unauthorized</p> <p>12 covers a -- a big range, and I don't know if I can</p> <p>13 answer that question yes or no.</p> <p>14 BY MR. WALSH:</p> <p>15 Q All right. Let me ask you this. If --</p> <p>16 if -- on your -- last time we were here we talked</p> <p>17 about your Saw Stop saw and warnings that were in</p> <p>18 there about everything from using undersized blades,</p> <p>19 to mounting blades backwards, to using dado heads or</p> <p>20 dado heads, and molding heads, and the dangers of</p> <p>21 that -- of nonconductive blades, all those sorts of</p> <p>22 things that it warned in the manual against. Would</p> <p>23 you agree with me, that each one of those, if</p> <p>24 mounted on the machine, makes the machine more</p> <p>25 dangerous?</p>	<p style="text-align: right;">Page 144</p> <p>1 unauthorized carbide-tipped saw blades on them?</p> <p>2 A What is -- what is your question?</p> <p>3 Q Yeah. Do you have any data, do you</p> <p>4 know what percentage of the users of hand-held</p> <p>5 gasoline-powered cut-off machines actually mount and</p> <p>6 use an unauthorized carbide-tipped saw blade on it?</p> <p>7 A If that data -- the existence of that</p> <p>8 data -- I -- I don't know how you would get that</p> <p>9 data because I don't know how you monitor each</p> <p>10 individual person who operates one of these saws on</p> <p>11 each circumstance, each instance, to whether they</p> <p>12 put an unauthorized blade or not. I don't know how</p> <p>13 you collect that data. Having that data doesn't</p> <p>14 necessarily give you a basis for a -- a good</p> <p>15 conclusion.</p> <p>16 Q Okay. I'm just trying to -- I'm just</p> <p>17 trying to compare. You say that some of these other</p> <p>18 uses on other bench saws are -- are -- don't</p> <p>19 happen -- don't happen as often as the normal use of</p> <p>20 the saw. I'm just trying to figure out if we have</p> <p>21 any basic comparison here. Is it 99.999 percent of</p> <p>22 the time that people using cut-off machines do</p> <p>23 things properly, and appropriately, and use the --</p> <p>24 the right cutting attachments? Or what is the</p> <p>25 percentage of people who misuse the machine and</p>
<p style="text-align: right;">Page 143</p> <p>1 A Yes. But experience has shown that</p> <p>2 each one of those is on that far end of the</p> <p>3 spectrum. It is the kind of -- and this has been</p> <p>4 proven out by the Consumer Product Safety</p> <p>5 Commission, the common usage of these saws, these</p> <p>6 are -- while they are problems, and they should not</p> <p>7 be overlooked, and they are safety problems, they</p> <p>8 are not everyday, day in and day out, occurrences.</p> <p>9 Q what percentage of people --</p> <p>10 A And what I might say is that they fall</p> <p>11 more in the category of latency. In other words,</p> <p>12 not obvious.</p> <p>13 Q well, all of those on -- on a table saw</p> <p>14 are dangers. Is there any table saw that has a</p> <p>15 device on them that would prevent you from putting</p> <p>16 an unsized blade on, mounting a blade backwards,</p> <p>17 putting a -- a -- a dado head or other thing that's</p> <p>18 a type of molding head that is not supposed to be on</p> <p>19 there, is there anything on any table saw that you</p> <p>20 know of including the Saw Stop that prevents you</p> <p>21 from doing that other than the warnings?</p> <p>22 A Not that I know of.</p> <p>23 Q All right. Do you know -- do you have</p> <p>24 any data, any figures on what percentage of users of</p> <p>25 hand-held gasoline-powered cut-off machines put</p>	<p style="text-align: right;">Page 145</p> <p>1 don't use the hundred percentage, and -- and -- and</p> <p>2 what's your knowledge about that, what's the data</p> <p>3 you have on that?</p> <p>4 MR. PACKIN: Object to form. It was</p> <p>5 just asked and it was just answered. Asking it</p> <p>6 again implies -- implies that he didn't answer it</p> <p>7 when he, in fact, did.</p> <p>8 THE WITNESS: The -- the existence of</p> <p>9 that data can be misleading because what you are</p> <p>10 talking about is frequency. In other words, how</p> <p>11 often do they do it? That's what you were asking</p> <p>12 me. 99 percent of the time, do they do it right? Or</p> <p>13 such a percentage of the time do they do it wrong?</p> <p>14 That refers to frequency.</p> <p>15 The problem is, is that the severity, the</p> <p>16 consequences of doing this is so great, even death,</p> <p>17 that that trumps -- in this case, in this instance,</p> <p>18 it trumps frequency. And along with it is latency.</p> <p>19 It is counterintuitive. It looks like you can do</p> <p>20 it. What the heck? I can cut concrete with one of</p> <p>21 these saws. Why can't I cut something soft like</p> <p>22 wood or plastic with one of these saws? Just stick</p> <p>23 a saw -- look at how good it cuts through. These</p> <p>24 people have been doing it for years. They've been</p> <p>25 doing it forever. That's frequency. Does that mean</p>

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1 that -- that -- that it should go on? No, because  
 2 look at the -- look at the injury this guy had.  
 3 BY MR. WALSH:  
 4 Q Is there potentially severe or fatal  
 5 injuries from using, for example, on your Saw Stop,  
 6 a -- a -- a molding head, or a uncondusive blade, or  
 7 mounting a blade backwards? Can people die from  
 8 those kind of errors on bench saws and table saws?  
 9 MR. PACKIN: Object to the form.  
 10 THE WITNESS: Well, that's like asking  
 11 is it possible. Anything's possible. Is it likely?  
 12 That's another story.  
 13 BY MR. WALSH:  
 14 Q How many people die every year in hand  
 15 saw, wood-cutting saw accidents? How many people  
 16 die every year in the United States?  
 17 MR. PACKIN: Hand saw, did you say?  
 18 BY MR. WALSH:  
 19 Q Power saw -- hand -- power tool hand  
 20 saw accidents. Do you know how many deaths occur  
 21 every year from just inadvertent contact with a saw  
 22 blade?  
 23 MR. PACKIN: That's a different  
 24 question than the first one. Object to the form.  
 25 Go ahead.

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1 THE WITNESS: Which one am I answering?  
 2 BY MR. WALSH:  
 3 Q You can take them in order if you like.  
 4 Just tell me which one --  
 5 MR. PACKIN: You can't do it that way.  
 6 Just give him a question and he can --  
 7 BY MR. WALSH:  
 8 Q Do you have -- do you know how many  
 9 people die every year from wood-cutting saw  
 10 accidents in the United States?  
 11 MR. PACKIN: I object to the form.  
 12 You can answer.  
 13 THE WITNESS: I have obtained from the  
 14 Consumer Product Safety Commission, their four  
 15 reports on the number of wood-cutting machines, and  
 16 one of them is deaths. Do I know how many? Did I  
 17 total them up? No. But I'll tell you one thing,  
 18 you got about 10,000 fingers or so are cut off every  
 19 year, you know. But people can die from  
 20 wood-cutting machines.  
 21 BY MR. WALSH:  
 22 Q Would you pull the reports out that you  
 23 are referring to? Do you have them with you?  
 24 A I do not.  
 25 Q Okay. What -- what are they called?

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1 A Well there is the NEISS, National  
 2 Electronic Injury Survey System. That's the one  
 3 that's most inclusive. I have it going back from  
 4 when they began taking it, which I think is 1970.  
 5 They update every year. They have -- another one is  
 6 called Reported Incidents -- Incidences in which a  
 7 person calls in and reports it. Another one is  
 8 Investigated Instances in which they decide that  
 9 they have to go out and do an investigation. So  
 10 they go and they do the investigation, and write a  
 11 report, and then these reports are compiled. Then  
 12 there -- there is the last one, which is deaths.  
 13 You can just call up the Consumer Product Safety  
 14 Commission today, and tell them you want all four,  
 15 to what machine you want, go back to when it was  
 16 originally taken, and in a week or two you will have  
 17 it.  
 18 Q Can we agree that more people die every  
 19 year from the use of authorized wood-cutting blades  
 20 on wood-cutting saws than die from the unauthorized  
 21 use of wood-cutting blades?  
 22 MR. PACKIN: I object to the form.  
 23 You can answer.  
 24 THE WITNESS: Well, not necessarily,  
 25 because try as I may, I'm unable to determine how

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1 many people die from the use of Stihl hand-held  
 2 cut-off -- concrete cut-off machines, saws, demo  
 3 saws.  
 4 BY MR. WALSH:  
 5 Q How many do you know about?  
 6 A Excuse me?  
 7 Q How many do you know?  
 8 A I probably know about five or six.  
 9 Q What are they?  
 10 A Dale Erb, I mentioned.  
 11 Q Anybody else?  
 12 A There's somebody whose name begins with  
 13 an M.  
 14 Q I'm sorry?  
 15 A Somebody whose name begins with an M.  
 16 Martin or something like that from the Philadelphia  
 17 area. The rest of them I don't know off the top of  
 18 my head. I have produced the -- printouts from the  
 19 federal courts. And I -- I can only get a very  
 20 small amount of the number of people who are --  
 21 number of cases or number of instances in which the  
 22 people have died.  
 23 The other thing is I cannot accept the  
 24 rationale that since there are so few people who die  
 25 because of putting tooth -- wood-cutting saw blades

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1 on these hand-held concrete cut-off saws, so  
2 many people -- so few people die that it is not  
3 necessary to do something, when such a simple thing  
4 as changing the arbor diameter would most likely  
5 eliminate all of them --

6 Q Tell me --

7 A -- or -- or the vast majority of them.

8 Q Tell me why it is that every saw  
9 manufacturer under your -- your approach to this  
10 should not have a proprietary arbor to accept only  
11 cutting attachments that that saw manufacturer  
12 authorizes for that saw. Why shouldn't every saw,  
13 regardless of design, why shouldn't every saw have a  
14 proprietary arbor?

15 MR. PACKIN: I object to form.

16 You can answer.

17 THE WITNESS: Well, you know, actually,  
18 Stihl, you know, your client, has said that. In  
19 other words, your client has said you are only to  
20 operate, only to install or use authorized cutting  
21 attachments on this saw. So if you had a  
22 proprietary arbor, that would eliminate it right  
23 there. In other words, then -- then you would have  
24 these Stihl blades you could sell, would have this  
25 proprietary diameter go on your proprietary arbor.

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1 BY MR. WALSH:

2 Q Not my question. My question is, why  
3 under your approach to this, why shouldn't every saw  
4 since every -- as far as we've identified every saw  
5 out there you can mount unauthorized cutting  
6 attachments which are dangerous, why shouldn't every  
7 saw have a proprietary arbor that only allows the  
8 mounting of the -- of the blades that are supposed  
9 to be on there in the manner they are supposed to be  
10 on there?

11 MR. PACKIN: I object to form.

12 You can answer.

13 THE WITNESS: Well, that's a good idea,  
14 actually. And I would think that, of course, every  
15 manufacturer is free to choose to solve this problem  
16 whatever way he sees fit. There may be that the  
17 manufacturers might get together like they get  
18 together to write the standard and say, listen,  
19 we've got this problem. These people keep putting  
20 these two wood-cutting saw blades on our hand-held  
21 concrete cut-off saws. So why don't we, as an  
22 industry, adopt some kind of a proprietary arbor  
23 configuration, and then that would eliminate this  
24 tendency to install these readily  
25 commercially-available blades.

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1 BY MR. WALSH:

2 Q I'm not talking about the cut-off  
3 machine industry. I'm talking about every  
4 wood-cutting saw that's out there. Under your  
5 approach, why shouldn't every wood-cutting saw, for  
6 example, your Saw Stop as an example, why shouldn't  
7 it have a proprietary arbor to prevent the mounting  
8 of blades that shouldn't be on there or the mounting  
9 of a blade in a manner, backwards, for example, that  
10 shouldn't be on there?

11 MR. PACKIN: I object to the form, and  
12 just asked and answered.

13 THE WITNESS: Well, some manufacturers  
14 have chosen to do that. There have been saws for  
15 particular sizes that have arbors that don't match  
16 what we commonly refer to as a standard arbor, a  
17 standard size. In other words, throughout the  
18 industry, the wood-cutting industry, some diameter  
19 arbors have been settled on because they are common.

20 BY MR. WALSH:

21 Q Can you name one manufacturer that's  
22 done that?

23 A Done which?

24 Q What you've just described, a  
25 proprietary arbor.

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1 A Well, yeah, there is a couple of them.  
2 One is a -- and I've got it in here. They make a --  
3 a saw, and it is currently available, for  
4 undercutting baseboards, for tile people to do work,  
5 to slip the stuff underneath. There is another saw  
6 that is a -- what used to be a -- for cutting  
7 typeset. Now it has been adapted to another reason  
8 -- another application. Sorry. There has been,  
9 over the years, a variety of proprietary-shaped  
10 arbors from diamond shape, to -- to square shape, to  
11 multiple pins have been used over the years, and --  
12 and I have catalogs that show it.

13 Q Let's look at the last ten years. Are  
14 you able to identify for me any saw manufacturer  
15 that is using what you consider to be a proprietary  
16 arbor?

17 A Yeah, that one -- excuse me. That  
18 manufacturer, and I have it here in my -- in my  
19 file.

20 Q Anybody else?

21 A Wait a second. Wait a second. Now --  
22 you know, it escapes me at this moment, whatever it  
23 is.

24 Q Do you have any data that suggests --  
25 and what size blade is on this one manufacturer that

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1 you can identify in the last ten years?

2 MR. PACKIN: I object to the form.

3 THE WITNESS: It might be, like, a

4 six-inch blade.

5 BY MR. WALSH:

6 Q Six inch. And do you have any data

7 that indicates that the proprietary arbor had any

8 effect on the number of accidents happening with

9 that unit?

10 MR. PACKIN: I object to the form.

11 THE WITNESS: I don't remember what I

12 have with it. I -- I -- I have looked at it and I

13 have it, but I can't tell you what it is right at

14 this moment.

15 MR. PACKIN: Whatever is a good time.

16 We haven't taken an official break where everybody

17 got to stand up.

18 BY MR. WALSH:

19 Q Just a couple more questions.

20 Do you have a -- do you know of any cut-off

21 machine in the world that has ever used a shaped

22 arbor, an arbor size other than one inch or

23 20-millimeters, or a pin arrangement? Any cut-off

24 machine that's ever been made and sold anywhere in

25 the world that's done that?

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1 MR. PACKIN: I object to the form.

2 Asked and answered the first two times that

3 Mr. Growney was deposed in this case.

4 But you can do it again.

5 THE WITNESS: Well, the ring saw.

6 BY MR. WALSH:

7 Q I'm not talking about a ring saw. I'm

8 talking about hand-held high-speed gasoline-powered

9 cut-off machines. Do you know of any that have --

10 and, by the way, what are you calling the arbor on a

11 ring saw?

12 A Well, what I'm saying by that is that

13 that's an example of extending the blade diameter to

14 its logical -- to the inside diameter, the hole

15 diameter, the bore diameter to its logical

16 conclusion whereby it becomes impossible to mount a

17 -- one of these tooth -- carbide-tooth wood-cutting

18 blades.

19 Q Is there an arbor on a ring saw?

20 A No.

21 Q Okay. The -- so let's go back. Do you

22 know of any hand-held gasoline-powered cut-off

23 machine in the world that has ever used an arbor

24 that's shaped, or some kind of pin arrangement, or

25 some kind of enlarged arbor?

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1 A I do not.

2 Q Okay. Let's break there then.

3 MR. KOTT: During the break, if the

4 court reporter has time, I'm going to identify the

5 documents in Growney-60. Just read them to her.

6 (Brief recess.)

7 MR. KOTT: There is a document by

8 Frantz and others entitled: Revision of ANSI

9 Standards for Warning Signs, Labels and Symbols,

10 published in the September 2002 edition of the STG

11 Newsletter.

12 There is an -- that article -- there is

13 an article entitled Comparison of ANSI and ISO

14 Standard Formats on People's Response to Product

15 Warnings by Shaver, S-H-A-V-E-R, and others,

16 published at page 2197 of the Human Factors Society

17 50th Annual Meeting in 2006.

18 There is an article by Young and

19 others, entitled Safety Signs & Labels, Does

20 Compliance with ANSI Z535 Increase Compliance with

21 Warnings, published at page 18 of Professional

22 Safety, the September 2002 edition.

23 There is an article by Young and others

24 entitled Safety Signs & Labels, Does Compliance with

25 ANSI Z535 Increase Compliance with warnings. It

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1 seems to be a repeat of the same article.

2 There is an article by Miller and

3 others entitled A Model for Designing and Evaluating

4 Product Information, published in The Human Factors

5 Society 35th Annual Meeting, 1991, beginning at

6 1063.

7 There is ASTM F1749-02 Standard

8 Specification for Fitness Equipment and Fitness

9 Facility Safety Signage and Labels.

10 There is an article entitled -- there

11 is an article by Frantz and others entitled ANSI

12 Z535, Signal words and the Ability to Infer Hazard

13 and Consequence Information -- 1992 versus 2004.

14 Published in the 2005, 49th annual meeting of the

15 Human Factors Society, beginning at page 1790.

16 There is an article entitled -- by

17 Frantz and others entitled Predicted versus Actual

18 Response to Warning Signs and Labels: Examining the

19 Role of ANSI Z535 Features from the Human Factors

20 Society 49th annual meeting in 2009, beginning at

21 page 1785.

22 There is an article by Frantz and

23 Rhoades entitled a Task and Analytic Approach to the

24 Temporal and Spatial Placement of Product warnings

25 published in 1993 in Human Factors, 1993, 35(4),

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40



<p style="text-align: right;">Page 158</p> <p>1 719-730.</p> <p>2 There is another article by Young and</p> <p>3 others entitled Evaluation of Prototype Labeling for</p> <p>4 Personal Flotation Devices: Methods and</p> <p>5 Observations, published in the Human Factors Society</p> <p>6 48th Annual Meeting, 2004, beginning at page 2018.</p> <p>7 There is another article by Frantz and</p> <p>8 others entitled Assessing the Effects of Adding</p> <p>9 Messages to Warning Labels, published in Human</p> <p>10 Factors Perspectives on Warnings, volume-2.</p> <p>11 There is another article entitled</p> <p>12 Consideration for Developing a Consensus Standard</p> <p>13 for Safety Information in Product-Accompanying</p> <p>14 Literature by Young and others, published in the</p> <p>15 Proceedings of the Human Factors Society, 46th</p> <p>16 annual meeting in 2002, beginning at page 900.</p> <p>17 There is another article by Young and</p> <p>18 others entitled Behavioral Adaptation: Unintended</p> <p>19 Consequences of Safety Interventions, published in</p> <p>20 the Human Factors Society, 46th Annual Meeting,</p> <p>21 2002, beginning at page 895.</p> <p>22 There is another article by Rhoades and</p> <p>23 Wisniewski, W-I-S-N-I-E-W-S-K-I, entitled Judgments</p> <p>24 of Risk Associated with Riding with a Reclined Seat</p> <p>25 in an Automobile, in the Proceedings of the Human</p>	<p style="text-align: right;">Page 160</p> <p>1 proprietary arbor, pin and dowel arrangement on a</p> <p>2 cut-off machine as a safety feature?</p> <p>3 A The fact that nobody has written about</p> <p>4 it doesn't mean that it's not needed. No. I have</p> <p>5 not found anybody. As a matter of fact, the -- the</p> <p>6 perpetuation of this type of accident clearly is an</p> <p>7 indication that it is needed.</p> <p>8 Q Have you found any standards applicable</p> <p>9 to cut-off machines anywhere in the world that</p> <p>10 require a -- any of the arbor concepts you've</p> <p>11 recommended for the machine?</p> <p>12 A I have not found any.</p> <p>13 Q Have you found any -- anything anywhere</p> <p>14 in the world in professional literature or elsewhere</p> <p>15 where somebody has tested one of those concepts on a</p> <p>16 cut-off machine, either an enlarged arbor, or a</p> <p>17 shaped arbor, or a pin and dowel arrangement?</p> <p>18 MR. PACKIN: For cut-off machines?</p> <p>19 BY MR. WALSH:</p> <p>20 Q Yes.</p> <p>21 A The fact that I haven't found it</p> <p>22 doesn't mean that nobody has done it. As a matter</p> <p>23 of fact, I -- I would be surprised that some of the</p> <p>24 manufacturers might have done it and have not chosen</p> <p>25 not to publish it. Keep it proprietary.</p>
<p style="text-align: right;">Page 159</p> <p>1 Factors Society, 48th Annual Meeting, 2004,</p> <p>2 beginning at page 1136.</p> <p>3 There is an article by Hall and others,</p> <p>4 H-A-L-L, entitled Clarifying the Hierarchical</p> <p>5 Approach to Hazard Control which seems to have been</p> <p>6 presented at the Third International Conference on</p> <p>7 Applied Human Factors in Ergonomics in Miami that</p> <p>8 took place July 17-20, 2010.</p> <p>9 And there is an article by Miller and</p> <p>10 others entitled a Model for Designing and Evaluating</p> <p>11 Product Information, published in the Proceedings of</p> <p>12 the Human Factors Society, 35th Annual Meeting,</p> <p>13 1991, beginning at page 1063.</p> <p>14 (Brief recess.)</p> <p>15 VIDEO SPECIALIST: Okay. We're back</p> <p>16 on.</p> <p>17 BY MR. WALSH:</p> <p>18 Q Mr. Gowney, have you published any of</p> <p>19 your ideas on arbor design to cut-off machines for</p> <p>20 peer review in -- anywhere?</p> <p>21 A No, I haven't.</p> <p>22 Q Have you, in -- in formulating your</p> <p>23 opinions on arbor design, have you found anybody in</p> <p>24 any of the literature who has written about the need</p> <p>25 for either shaped arbor, or enlarged arbor, some</p>	<p style="text-align: right;">Page 161</p> <p>1 Q Okay. My question was, in -- in any of</p> <p>2 the professional literature, anything you've done in</p> <p>3 connection with this case, have you come across any</p> <p>4 reference to anybody in the world testing any of</p> <p>5 those concepts on a cut-off machine or even voicing</p> <p>6 the need for that kind of concept in a cut-off</p> <p>7 machine?</p> <p>8 A I have not found anybody voicing a</p> <p>9 need. That doesn't mean they don't exist.</p> <p>10 Q Have you gone to any of the</p> <p>11 manufacturers and shared the concepts with them, and</p> <p>12 asked them if they've tested it?</p> <p>13 MR. PACKIN: I object to the form.</p> <p>14 You can answer it.</p> <p>15 THE WITNESS: Well, I guess you could</p> <p>16 say the prior case was that, in effect. In other</p> <p>17 words, there was one. I did make this suggestion in</p> <p>18 Stout, and I think Stihl -- Stihl was asked whether</p> <p>19 they tried it and their answer was no. My answer</p> <p>20 was to that, I guess, is a -- is a yes.</p> <p>21 BY MR. WALSH:</p> <p>22 Q And their answer was no because it was</p> <p>23 a dumb idea?</p> <p>24 MR. PACKIN: I object to the form.</p> <p>25 Let's not be --</p>



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1 BY MR. WALSH:  
 2 Q If we are going to say -- if we are  
 3 going to try to paraphrase what Stihl's answers  
 4 were, I think we need to paraphrase them correctly.  
 5 A Wait a second. I didn't say it was a  
 6 dumb idea.  
 7 Q No. I didn't suggest that you did.  
 8 A Well, what was that wise-ass question  
 9 about then? A dumb idea?  
 10 Q No. I said Stihl's answer.  
 11 A Stihl answer -- mine was a dumb idea?  
 12 MR. PACKIN: Hold on, hold on, hold on.  
 13 Just for the record, the word dumb was never used by  
 14 anybody from Stihl in any report, deposition  
 15 testimony or anything else. That's purely your  
 16 creation.  
 17 MR. WALSH: Unsafe idea. Is that  
 18 closer to what we need?  
 19 MR. PACKIN: It is a more professional  
 20 way of addressing it, yes.  
 21 BY MR. WALSH:  
 22 Q Let's do -- have you gone to any of the  
 23 standards organizations that have responsibility for  
 24 cut-off machine safety and made a presentation or  
 25 asked them what they thought of the idea, or whether

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1 they had tested any of these arbor suggestions?  
 2 A No, I have not.  
 3 Q Have -- outside of these cases, can you  
 4 cite me to anything, anywhere, another engineer, a  
 5 standards organization, another living soul besides  
 6 yourself who has suggested that it would make a  
 7 cut-off machine safer to adopt one of these  
 8 proprietary arbor suggestions?  
 9 MR. PACKIN: I object to the form.  
 10 THE WITNESS: No, I have not.  
 11 BY MR. WALSH:  
 12 Q Okay. Have you done a single test on  
 13 any of the concepts of any kind, shaped arbor, pin  
 14 and dowel, enlarged arbor, have you done any type of  
 15 testing to confirm that it would, in fact, make a  
 16 cut-off machine safer rather than less safe to it by  
 17 adopting one of these arbor suggestions?  
 18 MR. PACKIN: I object to the form. And  
 19 it's been asked and answered.  
 20 But you can do it again.  
 21 THE WITNESS: Yeah, that's right. You  
 22 know, it seems to me I did answer this before, but I  
 23 will answer it again if it will help you out.  
 24 I don't need the test. You know. This -- it  
 25 is quite obvious that if you have a larger arbor,

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1 and you pick up this saw blade and it has a smaller  
 2 hole, and you are out in the field trying to cut  
 3 some pipe or something like that, and it's some day  
 4 in which the -- or some night in which the -- the --  
 5 the supply houses aren't open, and you can't put  
 6 that saw blade on that large arbor, you are not  
 7 going to do it. You are not going to make that  
 8 dangerous cut right then and there that could be  
 9 your life.  
 10 BY MR. WALSH:  
 11 Q Did -- do you consider your Saw Stop  
 12 defective because it does not have any device on it  
 13 designed to prevent the mounting of unauthorized and  
 14 potentially dangerous cutting attachments?  
 15 MR. PACKIN: That's been asked and  
 16 answered today, either the first time or the second  
 17 time we were here for his deposition. I mean, you  
 18 don't have to use the time just because it is left.  
 19 You want to answer it again, go ahead.  
 20 THE WITNESS: I consider the Saw Stop  
 21 mechanism an advancement, a safety advancement which  
 22 hasn't -- has not existed in the market, was not  
 23 available before, just a step forward in a new  
 24 direction. It handles a number of -- it mitigates  
 25 certain types of injuries. It is not the be all,

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1 end all that eliminates everything. It still has  
 2 some -- some areas where it has hazards just like  
 3 other saws, but that's as far as I'm going to say.  
 4 BY MR. WALSH:  
 5 Q Okay. But my question is, the fact it  
 6 does not have a proprietary arbor, and the fact that  
 7 blades -- cutting attachments can be put on there  
 8 that are dangerous and should not be put on there,  
 9 does that fact make it defective?  
 10 MR. PACKIN: Same objection, and asked  
 11 and answered now an additional time.  
 12 THE WITNESS: Well, you would have to  
 13 evaluate it in -- in the -- no, it doesn't make it  
 14 -- make it defective. Here you have -- here you  
 15 have a safety mechanism that provides an element of  
 16 protection that has never existed before. And the  
 17 fact that it doesn't cover a hundred percent of all  
 18 the possibilities does not make it defective. It is  
 19 an advancement. It is something over and above. It  
 20 is -- it's now -- it is now, after ten years, the  
 21 state of the art. And -- and is it defective  
 22 because there may be something that -- that somebody  
 23 might do, you know, to -- that -- that might negate  
 24 it? Well, you know, we will have to evaluate when  
 25 it comes. But the advancement is -- is positive.

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1 BY MR. WALSH:

2 Q Is there any reason the Saw Stop, in  
3 your view, could not adopt a proprietary arbor that  
4 would prevent people from, for example, mounting a  
5 nonconductive saw blades, nonconductive saw blades, or  
6 other blades that should not be on there because  
7 they create a danger to the user? Any reason they  
8 couldn't do that?

9 MR. PACKIN: I object to the form.

10 THE WITNESS: Well, is there any reason  
11 that they could not do it?

12 BY MR. WALSH:

13 Q Yes.

14 A Physically impossible?

15 Q Uh-huh.

16 A No, it is not physically impossible.

17 They may not have other reasons why they want to  
18 build this machine with an arbor that has become  
19 accepted as a -- a standard in the industry, and  
20 their protection that they have provided is meant  
21 for these standard blades.

22 Q But all of the -- but all of the  
23 dangers we talked about that they warn against are  
24 all things that totally overcome that guarding  
25 system; the nonconductive blades, the molding heads,

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1 the dado heads, the undersized, mounting backwards  
2 are all things that they specifically say does away  
3 with the protection of the new device entirely and  
4 so don't do it. Is there any reason why they  
5 couldn't simply put some kind of proprietary arbor  
6 on there in order to prevent people from putting  
7 those kind of cutting attachments on?

8 MR. PACKIN: I object again. Asked and  
9 answered.

10 But go ahead.

11 THE WITNESS: Well, I think actually  
12 they can take a dado head. They have to do certain  
13 things if I remember it correctly. It is the  
14 molding head that they can't take. Dado head is  
15 limited. But I forgot the thrust of your question.  
16 What is it?

17 BY MR. WALSH:

18 Q Yeah. All of the -- all of the things  
19 we talked about as being potentially dangerous  
20 attachments going on that saw are all things that  
21 made -- that did away, overrode the safety device.  
22 And so my question is simply was, is there anything  
23 that, any reason why they couldn't simply put a  
24 proprietary arbor on there and do away with that  
25 risk?

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1 MR. PACKIN: Same objection as before.

2 THE WITNESS: Well, I don't think that  
3 was the thrust of the invention, to -- in other  
4 words, the fact that they could or couldn't, I don't  
5 think they were going in that direction. I think  
6 what they were doing was -- was to take the  
7 existing, and what's -- what's used and protect  
8 against -- was mitigate the degree of injury.  
9 That's what it does. It doesn't prevent an injury.  
10 It mitigates the degree of injury.

11 BY MR. WALSH:

12 Q All right. I don't think your -- I  
13 don't think that responds to my question. Is there  
14 any reason why they couldn't have put a proprietary  
15 arbor on the machine and prevented people from  
16 overriding the mitigation of injury provided by  
17 their new device?

18 MR. PACKIN: Same objection. This is  
19 the last time I'll allow it.

20 Go ahead.

21 THE WITNESS: You know, this is like,  
22 is there any reason why you couldn't do it? No.  
23 There is no reason why they couldn't do it. They  
24 made a business decision to go this way.

25 BY MR. WALSH:

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1 Q And in -- and in -- and that is true, I  
2 take it, of every saw on the marketplace today that  
3 uses a standard arbor, and that can be mounted, and  
4 people can mount on those saws, cutting attachments  
5 that are dangerous to be used on a particular saw;  
6 correct?

7 MR. PACKIN: What is true?

8 BY MR. WALSH:

9 Q That they made a judgment to put the  
10 arbor on there and that's -- that is the vast  
11 majority of saws in the marketplace, is it not?

12 MR. PACKIN: I object to the form.

13 You can answer it.

14 THE WITNESS: Well, you -- you have a  
15 situation where the danger -- let's just take a  
16 nonconductive blade. The danger of -- of installing  
17 a nonconductive -- I'm sorry -- conductive --  
18 conductive -- a nonconductive blade is no greater on  
19 a Saw Stop than it is on any saw. It is just that  
20 it negates the injury mitigation feature.

21 MR. PACKIN: Keep going.

22 THE WITNESS: The same thing with  
23 the -- with the molding head. The same thing with  
24 putting the blade in backwards. Actually, the blade  
25 in backwards is a little different. It still works,

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1 but it may not work as effectively. What you have  
2 is it doesn't make the saw more dangerous. It just  
3 negates the effectiveness of the -- of the injury  
4 mitigation system. Now, certainly I would  
5 anticipate that people who use Saw Stop rely upon  
6 that injury mitigation system because that's what  
7 sells the saw. That's why they are getting it. So  
8 it doesn't make it more dangerous. It just  
9 eliminates it.

10 BY MR. WALSH:

11 Q All right. Well, let's go away from  
12 the saw stop and take any wood-cutting saw that you  
13 want. Do you know of any wood-cutting saw where you  
14 cannot mount blades that are -- that are --  
15 shouldn't be on there and are dangerous for you  
16 sawing it?

17 MR. PACKIN: That -- that's been asked  
18 and answer already. We are just wasting time.

19 THE WITNESS: You asked me that before.  
20 You asked me that before. You know, you want to ask  
21 me the same questions over and over again, go right  
22 ahead. You know.

23 BY MR. WALSH:

24 Q Are those saws defective in your mind  
25 because they can be mounted with blades that should

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1 not be on there and are dangerous?

2 MR. PACKIN: Asked and answered. Last  
3 time. This is the last time.

4 Have you conducted an analysis of other saws?

5 MR. WALSH: Let's not have speaking  
6 objections.

7 MR. PACKIN: That's the only way we are  
8 going to get past the same question 17 times.

9 BY MR. WALSH:

10 Q Are the saws generally defective  
11 because they allow -- are wood saws, in general,  
12 defective because they allow for the mounting of  
13 blades that are dangerous that can be -- that  
14 shouldn't be on there and are potentially dangerous?

15 A Not necessarily so.

16 Q Okay. And -- and why not?

17 A Because -- because they are made for a  
18 cutting attachment. There are a wide variety of  
19 cutting attachments, and they are designed to  
20 accommodate a certain variety. It is not unlimited.  
21 It is not going to the ends of the earth. There is  
22 a limitation.

23 Q But can't every saw have a -- a  
24 proprietary arbor that only allows it to take what  
25 the manufacturer wants on it?

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1 MR. PACKIN: Asked and answered already  
2 today. You are just going around in circles. At  
3 some point it becomes harassing, and it is about at  
4 that point.

5 THE WITNESS: Would you repeat the  
6 question?

7 MR. WALSH: Read it back to him,  
8 please.

9 (The court reporter read back the  
10 pending question as follows:

11 "Question: But can't every saw have a  
12 -- a proprietary arbor that only allows it to  
13 take what the manufacturer wants on it?")

14 THE WITNESS: What saw?

15 BY MR. WALSH:

16 Q Any one that doesn't have it, and that  
17 -- and I believe we can agree, can we not, that  
18 that's almost all of them.

19 MR. PACKIN: I object to the form.  
20 It's been covered before.

21 THE WITNESS: You know, I'm sorry, but  
22 I -- I -- you've got me confused. I really don't  
23 know what you are asking.

24 BY MR. WALSH:

25 Q Okay. There is a large universe of

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1 wood-cutting saws out there, some hand held and some  
2 not; correct?

3 A Yes.

4 Q Okay. The vast, vast, vast majority of  
5 those saws do not have some type of proprietary  
6 arbor; correct?

7 MR. PACKIN: I object to the form.

8 THE WITNESS: Yes.

9 BY MR. WALSH:

10 Q The vast, vast majority of those saws  
11 can be mounted with saw blades of types that should  
12 not be on the saw; correct?

13 MR. PACKIN: I object to the form.

14 THE WITNESS: Oh, I suppose there are  
15 some blades that shouldn't be on those saws, yeah.  
16 Just wait a second, though. But, you know, implicit  
17 in this question is that there is a whole bunch of  
18 saw blades out there that shouldn't go on the -- the  
19 -- the machine. Well, you know, maybe that  
20 assumption isn't quite accurate. Maybe there are a  
21 few, a few, or like, you know, if you have, say, a  
22 10-inch saw and you want to put a 12-inch saw blade.  
23 Well, a 12-inch saw blade shouldn't go on there.  
24 And you want to know something? Most of the saws,  
25 it won't go on. So, yes, those saws have provisions

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1 to prevent blades that are not -- that shouldn't go  
 2 on there. So, if that's what you mean -- is that  
 3 what you mean?  
 4 BY MR. WALSH:  
 5 Q What now -- that wasn't my question.  
 6 My question is, it relates to any saw that a  
 7 blade can be put on there that is not designed for  
 8 that saw. Any blade.  
 9 MR. PACKIN: Is that a question?  
 10 BY MR. WALSH:  
 11 Q For example, an abrasive wheel on a --  
 12 on a saw that it is not designed to go on, can be  
 13 dangerous?  
 14 A What saw is not -- an abrasive wheel  
 15 not designed to go on?  
 16 Q Let's say it is a -- it's a worm drive,  
 17 high torque machine used for cutting flooring or  
 18 something else. Should a -- all right -- and you  
 19 have an abrasive wheel not designed for that kind of  
 20 torque or application that somebody puts on there.  
 21 Dangerous?  
 22 MR. PACKIN: I object to the form.  
 23 THE WITNESS: Perhaps.  
 24 BY MR. WALSH:  
 25 Q Anything on that machine to prevent

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1 them from doing it?  
 2 A Well, it should be certainly -- not  
 3 that I know of.  
 4 Q Okay. All right. Another thing you  
 5 mentioned during the last deposition was, and I  
 6 think this was somehow in connection with a break, I  
 7 don't know, but a de-clutching device. Do you  
 8 remember mentioning that?  
 9 A Oh, perhaps, yes.  
 10 Q Have you -- have you seen any cut-off  
 11 machine or any gasoline hand-powered tool that uses  
 12 a de-clutching device?  
 13 A Well, these do. They have a  
 14 centrifugal clutch.  
 15 Q Is that what you mean by a de-clutching  
 16 device, a centrifugal clutch?  
 17 A No.  
 18 Q What do you mean --  
 19 A When I was -- I was talking about a  
 20 combination clutch/brake, which is a -- which is a  
 21 standard mechanical design. It exists in a -- a  
 22 whole variety of machines. It is well known. It's  
 23 been around for 50/100 years, whatever. In other  
 24 words, the -- you simultaneously -- when it is  
 25 actuated, you simultaneously de-clutch or disconnect

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1 the power driven -- the power source and you apply  
 2 the brake to the -- to the rotating element.  
 3 Q Do you have -- do you know of any  
 4 hand-held gasoline power tool that uses a brake and  
 5 a de-clutching device?  
 6 A No.  
 7 Q Have you done --  
 8 A Well -- well -- well, actually,  
 9 probably chainsaws, in effect. That's -- that's not  
 10 the -- quite arrangement of them, but, in effect,  
 11 they do.  
 12 Q Can you -- can you tell me what the --  
 13 the only thing on a chainsaw is the centrifugal  
 14 clutch; correct?  
 15 A Well, no. Not the only thing. And  
 16 then there is the brake.  
 17 Q Yeah. There is nothing on -- there is  
 18 no de-clutching mechanism that works with the brake,  
 19 is there, on a chainsaw?  
 20 A No, but I said in effect. In other  
 21 words, if you have a situation where you -- where  
 22 the brake is applied, and you -- you begin to halt  
 23 the -- the chain, if you let go of the trigger, the  
 24 clutch -- the clutch disengages when it drops down  
 25 to the slowest speed.

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1 Q Okay. Well, what I'm trying -- is that  
 2 what you are talking a de-clutching device --  
 3 A No.  
 4 Q -- the normal action of the centrifugal  
 5 clutch?  
 6 A No. You asked me a -- you know, one  
 7 of -- one of your general, broad,  
 8 reaching-out-to-the-ends-of-the-earth question, so I  
 9 gave you a general, broad,  
 10 reaching-out-to-the-ends-of-the-earth answer.  
 11 That's why I said what I said, in effect it happens.  
 12 In other words, in effect, it does, you know, but  
 13 that's not what I meant.  
 14 Q Okay. Do you know of any hand-held  
 15 gasoline-powered tool that uses a de-clutching  
 16 device of the kind you were talking about before?  
 17 Not just a normal activation of the clutch in the --  
 18 in the mechanism, using a de-clutching device in a  
 19 brake. Any gasoline hand-powered hand tool that you  
 20 know of?  
 21 A No. But as I said before, that is a  
 22 common configuration, mechanical configuration that  
 23 exists in numerous mechanisms, devices, machines.  
 24 It is nothing new.  
 25 Q Have you ever seen it in a



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1 gasoline-powered tool?

2 MR. PACKIN: Don't answer it again.

3 Don't answer it again. You already answered it

4 twice. Don't answer it again.

5 MR. WALSH: Well, he keeps saying it is

6 a common tool and it -- I want you to name every

7 gasoline-powered tool that you've seen that

8 combination used in.

9 MR. PACKIN: He's answered that.

10 MR. WALSH: He hasn't answer that.

11 MR. PACKIN: He said none.

12 MR. WALSH: None; correct?

13 MR. PACKIN: Is that correct?

14 THE WITNESS: Correct.

15 BY MR. WALSH:

16 Q All right. The -- have you done any

17 kind of design work, drawings of -- of a

18 de-clutching device for a hand-held gasoline-powered

19 tool?

20 A No.

21 Q Have you done any prototypes of a

22 de-clutching device for any kind of a gasoline

23 hand-powered tool?

24 A No.

25 Q Have you done any testing of a

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1 de-clutching device for any gasoline hand-powered

2 tool?

3 A No.

4 Q Have you published --

5 MR. PACKIN: Gasoline-powered,

6 hand-held --

7 BY MR. WALSH:

8 Q Yes. Gasoline -- right.

9 Have you published the concept anywhere for

10 peer review?

11 A No.

12 Q Have you done any patent search to see

13 if any such device tests exists in the patents

14 world?

15 A Yes, I did.

16 Q Did you find any?

17 A No.

18 Q Did you -- have you gone to any of the

19 standards organizations or anybody else to find out

20 if anybody has designed, developed, or tested that

21 kind of device for a hand-held power tool?

22 A No.

23 Q The -- do you know of any support in

24 the engineering literature for the design or

25 development of a de-clutching device for a hand-held

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1 gasoline-powered tool?

2 MR. PACKIN: I object to the form.

3 You can answer it.

4 THE WITNESS: I don't think so.

5 BY MR. WALSH:

6 Q Do you know of any standards applicable

7 to hand-held gasoline-powered tools that suggest or

8 recommend the use of a de-clutching device with a

9 brake?

10 A No.

11 Q Have you -- have you done anything on

12 your de-clutching concept other than think about it?

13 MR. PACKIN: I object to the form.

14 THE WITNESS: I started -- you asked me

15 this last time, actually. And I started to do

16 calculations, yes.

17 BY MR. WALSH:

18 Q You started to do calculations of what?

19 A Maximum energy available, you know.

20 What do you anticipate? Et cetera, et cetera.

21 Q And that was in connection, I think,

22 when we had that discussion, that was in connection

23 with a brake; correct?

24 A Yeah.

25 Q All right. And let me ask you this --

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1 A And then I think I -- I think I told

2 you that that led me to consider an alternative,

3 which would be -- use the same mechanism, but

4 actually -- no. I'm sorry. Not the same -- similar

5 mechanism, but instead of braking the wheel, you

6 would just shoot a blade guard, like what's on --

7 shoot to encompass and enclose the blade. In

8 other words, that's an alternate design.

9 Q All right.

10 A In other words, instead of stopping the

11 blade, you would -- you could shoot a guard out and

12 it would guard the blade. In other words, you would

13 achieve the same effect, which would be you would

14 prevent the spinning blade from contacting flesh.

15 In one way you do it -- the actuation is the -- you

16 stop the blade. The other way is you shoot the

17 guard out, as the guard becomes the barrier between

18 the spinning blade and the flesh.

19 Q And -- and the same series of questions

20 and, I mean, the -- have you -- have you actually

21 done any design drawings on such a guard?

22 A No.

23 Q Have you done -- developed prototypes

24 of such a guard?

25 A No.

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1 Q Have you done any testing of such a  
2 guard?  
3 A No.  
4 Q Have you -- do you know of anybody in  
5 the world who has done such testing of that kind of  
6 guard on a cut-off machine?  
7 A Well, actually, when you talk about  
8 testing, this is how I think we got into the Power  
9 Tool Institute study on guarding of circular saw  
10 blades.  
11 Q Okay.  
12 A So, in other words, there is the  
13 write-up of testing that was done on that type of  
14 device. It is currently -- it is current  
15 technology. And there is no reason why it can't be  
16 adopted to this.  
17 Q The -- all of the -- the study you are  
18 talking about was all -- none of those were  
19 gasoline-powered cut-off machines, were they?  
20 A No. But they had a rotating blade with  
21 teeth, and the intention was to prevent the teeth  
22 from contacting flesh. You know, so now we have the  
23 same situation here. We have a bigger blade with  
24 rotating teeth, and when -- when it contacts flesh  
25 while it is rotating, it causes severe injury or

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1 death.  
2 Q What was your --  
3 MR. PACKIN: Let him finish. Let him  
4 finish.  
5 Were you done?  
6 THE WITNESS: Yes.  
7 BY MR. WALSH:  
8 Q What was the largest blade tested by  
9 the Power Tool Institute?  
10 A I -- I think they were in an eight-inch  
11 blade.  
12 Q And what was the biggest saw,  
13 power-wise, tested by the Power Tool Institute?  
14 A I don't remember.  
15 Q Were there any gasoline-powered tools  
16 tested by the Power Tool Institute at all?  
17 A No. But that doesn't mean that that --  
18 that safety device isn't adaptable. It is  
19 transferable. You know, it is immaterial of the  
20 power source. What it is focusing on is the  
21 rotating blade. It is not focusing on whether it is  
22 an electric motor that is spinning, or a gasoline  
23 engine, because that device does not turn the  
24 electricity off, would not turn the gasoline engine  
25 off.

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1 Q Have you seen that kind of guard used  
2 on any cut-off machine, hand-held gasoline-powered  
3 cut-off machine ever sold anywhere in the world?  
4 A Gasoline-powered?  
5 Q Yes, sir.  
6 A Seems to me those guards are on 14-inch  
7 saws and 16-inch saws, hand-held circular saws.  
8 Q Electrically powered?  
9 A Yes. Yes.  
10 Q Wood-cutting saws?  
11 A We got wood-cutting blades. That would  
12 be appropriate.  
13 Q The saws -- the saws you are talking  
14 about are things like Big Foot and so on that are  
15 used for cutting wood?  
16 A Yes.  
17 Q Okay. They are not used for cutting  
18 concrete. They are not used for cutting asphalt.  
19 They are not used for cutting metal, that type of  
20 thing?  
21 A Technology is transferable. What you  
22 are cutting has no bearing on the technology. The  
23 technology is the initiation of the movement of  
24 the -- the guard that protects the cutting teeth  
25 from contacting the flesh. That part of that is --

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1 is immaterial whether the motor force is an  
2 electric, or is gasoline-powered, or diesel powered,  
3 or pneumatically powered, or -- or whatever.  
4 Q You haven't attempted to make the  
5 transfer and -- and demonstrate with the prototype  
6 or any other type of testing that that kind of guard  
7 is feasible and could work on a hand-held  
8 gasoline-powered cut-off machine, have you?  
9 A No, I have not.  
10 Q Do you know of anybody who has?  
11 A No.  
12 Q Do you know of any hand-held  
13 gasoline-powered cut-off machine anywhere in the  
14 world that uses them?  
15 A No, I do not.  
16 Q Do you know of any standard that calls  
17 for it?  
18 A No.  
19 Q Do you know of any professional  
20 literature anywhere in the world that has suggested  
21 that the kind of guard you are suggesting would be  
22 feasible work, and would make safer a hand-held  
23 gasoline-powered cut-off machine?  
24 A No, I do not.  
25 Q Do you know of any other person in the

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1 world, other than yourself, who has suggested that  
2 that kind of guard is feasible, would work, and  
3 would make a hand-held gasoline-powered cut-off  
4 machine safer?

5 MR. PACKIN: I object to the form.

6 THE WITNESS: No, I do not.

7 BY MR. WALSH:

8 Q Have you gone to any of the standards  
9 organizations and -- and determined -- and tried to  
10 determine if they believe that it would make a  
11 cut-off machine safer to incorporate that kind of  
12 guard?

13 A No. I have not gone to any of the  
14 standards organizations.

15 Q Does the -- does OSHA regulations which  
16 mandate the type of guards that must be on a  
17 hand-hand gasoline-powered cut-off machine call for  
18 that kind of lower blade guard?

19 A No, it does not.

20 Q The -- all right. Now, the -- I want  
21 to go back to a -- a question, when you were talking  
22 about a brake, you have not done any testing of  
23 brakes for cut-off machines or attempted to adopt  
24 any sort of brake to a cut-off machine, have you?

25 A Testing, no.

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1 Q And you haven't developed any  
2 prototypes of a brake?

3 A Right.

4 Q Do you know of anybody who has tested a  
5 brake on a hand-held gasoline-powered cut-off  
6 machine?

7 A No, I do not.

8 Q Do you know of any standard that calls  
9 for a brake on a hand-held gasoline-powered cut-off  
10 machine?

11 A I think you asked me that question  
12 before.

13 Q If I did, I apologize. But I -- it is  
14 -- because we've gone over multiple days, you are  
15 right, we may get repetitive, and I apologize for  
16 that.

17 A You are repetitive within the past 15,  
18 20 minutes.

19 Q Perhaps. But I don't -- I -- I don't  
20 remember it, so why don't we just give a go at it  
21 and see how it works?

22 A What was the question?

23 MR. WALSH: Read it back, please.

24 (The court reporter read back the  
25 pending question as follows:

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1 "Question: Do you know of any standard  
2 that calls for a brake on a hand-held  
3 gasoline-powered cut-off machine?")

4 THE WITNESS: I know you asked me that  
5 question before. I will give you the same answer.  
6 No.

7 BY MR. WALSH:

8 Q All right. The -- when you did your  
9 calculations, you did your -- do you have those  
10 calculations with you, by the way, that you say that  
11 you started on on what you would -- what energies  
12 you would need to brake on a cut-off machine?

13 A I don't know if I have them with me or  
14 not.

15 Q All right. The -- and you calculated  
16 that based on the horsepower of the engine?

17 A Yes. The stop at the max. That's the  
18 most you can get out of it. Whatever the engine  
19 can --

20 Q What mass of the wheel did you use as  
21 -- as the mass of the wheel in your calculations?

22 A I was going to use a -- a -- a -- a  
23 typical diamond steel wheel with diamond on it.

24 Q Do you know how the mass of a diamond  
25 wheel compares to the mass of an oldham

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1 carbide-tipped saw blade?

2 A I'm just trying to remember if the -- I  
3 know I have measured the thickness of the -- of an  
4 Oldham blade, and I believe I have measured the  
5 thickness of the Dewalt blade, and I don't remember  
6 what it is right now.

7 Q How about just the overall mass, the  
8 weight?

9 A Well, they are -- they're -- I -- I  
10 don't know at this point in time.

11 Q How did you -- did you -- did you get  
12 around to accounting for the stored energy in the  
13 blade when you calculated braking power?

14 A Yeah. You would have to. Yeah, you  
15 would have to.

16 Q How did you calculate the stored energy  
17 in the blade?

18 A Well, you would use the inertia of the  
19 rotating blade, and that would give you the stored  
20 energy.

21 Q What's the -- what's the formula you  
22 used?

23 A It is -- it's out of Marks handbook.  
24 It is Baumeister & Marks is the one I have. It is  
25 also in Shigley and it's also in -- I have a couple

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1 of -- three different reference books that I -- that  
2 I have. And it is also in a -- a brake -- a couple  
3 of brake books that I have.

4 Q What is it?

5 A I don't remember off the top of my  
6 head.

7 Q Do you have any references with you?  
8 MR. PACKIN: Well, he said he might.

9 BY MR. WALSH:

10 Q Do you have them with you?

11 A I know those books that I mentioned, I  
12 don't.

13 Q Okay. The calculations that you did,  
14 do you have those with you?

15 A I would have to look.

16 Q Take a look.

17 MR. WALSH: Instead of looking through  
18 there now, let's continue with the questions because  
19 we're a little short of time, and we will ask you if  
20 maybe, Mr. Packin, if you'll send those calculations  
21 to us.

22 BY MR. WALSH:

23 Q The -- but did you decide -- did you  
24 decide how much braking power, if that's a correct  
25 term, would be required in order to brake a Oldham

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1 A well, like a chain -- like a chainsaw.  
2 You would use the same mechanism. In other words,  
3 during the kickback, you depend upon the -- the  
4 trigger hitting the operator's hand.

5 Q Okay. Is that -- is that how you think  
6 a chain brake activates on a chainsaw, the -- the --  
7 the front hand guard hits the operator's guard?

8 A Well, this is -- this is the way that I  
9 envision that this would be on -- on this machine.

10 Q Okay. So on this machine, you would  
11 have a mechanical activation that sometime during  
12 the rotation it would hit the -- it would hit the  
13 hand of the operator and activate; correct?

14 A Yeah, yes.

15 Q Okay. One thing I want to be clear on,  
16 what -- what is it that you contend -- what  
17 combination of things, what single things do you  
18 contend must be on a hand-held gasoline-powered  
19 cut-off machine in order for the machine to be  
20 appropriately safe? We've mentioned -- you've  
21 mentioned lower guards. You mentioned brakes. You  
22 mentioned de-clutching devices. You mentioned  
23 proprietary arbors. Do all of those things have to  
24 be on there? Which of them have to be on there?

25 A Well, the -- the arbors, those are

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1 14-inch, carbide-tipped saw blade on a TS400?

2 A I made -- I started, but I don't  
3 remember exactly how far I got.

4 Q Okay. The -- the brake, the  
5 de-clutching device, conceptually, how would it be  
6 activated? What would activate it?

7 A Well, you would use a -- you asked me  
8 this last time, because I referred to it as a paddle  
9 and you referred to it as a hand-grip guard.

10 Q Hand guard.

11 A Hand guard. Right. By paddle, I mean,  
12 it is -- it's a trigger. You know, whether it is in  
13 the shape of a hand guard or whatever.

14 Q It is a mechanical activation?

15 A Right.

16 Q So the operator would have to  
17 mechanically activate it?

18 A Well, it is based on kickback, you  
19 know. You need this thing when you get a kickback,  
20 because this machine will flip in the air and come  
21 back, so you have that amount of time to stop  
22 something.

23 Q Okay. But, I mean, does the operator  
24 have to physically and consciously activate it, or  
25 how does it work?

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1 alternate designs. In other words, the larger  
2 arbor, the shaped arbor, the pin drive. Those are  
3 variations. Okay. So --

4 Q You could use any of those?

5 MR. PACKIN: I object to the form.

6 THE WITNESS: Yeah. You may have a  
7 preference. My preference is for the larger design,  
8 larger one. That would preclude the installation of  
9 the blade. Now, if you didn't want to do that,  
10 well, now you are faced with a -- a kickback. In  
11 other words, how are you going to control the  
12 kickback? So then that leaves you with, do you stop  
13 the blade from rotating, or do you guard the blade  
14 from rotating while it is rotating? I'm sorry.  
15 During a kickback, right, do you stop the blade or  
16 do you guard the spinning blade? Those are  
17 alternates.

18 In other words, if you are not going to use  
19 one -- in other words, if you are not going to do a  
20 proprietary arbor, well, then, you've greatly  
21 increased the potential, the probability of somebody  
22 sticking one of these blades on this saw and having  
23 it kick back because the teeth contact wood, or  
24 plastic, or whatever.

25 So now that you -- you admitted that you are

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1 not going to preclude the installation of one of  
2 these blades, then you have to do something to  
3 safeguard the person when one of these blades are on  
4 the saw and they are using it in the prohibited,  
5 reasonably foreseeable misuse of cutting wood or  
6 plastic with a tooth -- carbide-tooth wood-cutting  
7 saw blade.

8 So then, what does that leave you? well, that  
9 leaves you, once again, either the brake or the  
10 guard. Actually, I probably prefer the guard.

11 BY MR. WALSH:

12 Q All right. So if I understand you  
13 correctly, if you put a proprietary arbor on the  
14 machine, that in and of itself would be enough;  
15 correct?

16 A Yeah. That would -- that would, in  
17 essence, give you sufficient safeguarding against  
18 the saw blade ever getting on the machine.

19 Q And then, alternatively, if you didn't  
20 use a proprietary arbor, either the lower guard or a  
21 brake, and you would prefer the lower guard?

22 A Yeah. I think that would probably work  
23 better.

24 Q All right. The -- and -- and then,  
25 does the brake, in your view, does the brake have to

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1 Go ahead.

2 THE WITNESS: I think at that time,  
3 Stihl, Makita, Husqvarna. There were a couple,  
4 Asian companies. Target, I think, had one at that  
5 time. There is one I did a case on a couple of  
6 them. Homelite. I think Homelite was still in the  
7 business at that time. I'm not a hundred percent --  
8 I'm not sure when they -- if they were still around.  
9 Yeah, 2003. Yes, yes, 2003, they were.

10 BY MR. WALSH:

11 Q You think Homelite was still making  
12 cut-off machines in 2003?

13 A I think so, yes.

14 Q Let me ask you this. Do you know what  
15 warnings were on cut-off machines, any brand of  
16 cut-off machines in 2003?

17 MR. PACKIN: It's been asked and  
18 answered, too.

19 THE WITNESS: I know that I had looked  
20 at cut-off -- a couple of cut-off machines by the  
21 year 2003, and I don't remember what -- at this  
22 point, sitting here, I don't remember what the  
23 warning said.

24 BY MR. WALSH:

25 Q What -- what -- what cut-off machines

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1 be coupled with a de-clutching device or is -- or  
2 not?

3 A Yes. Yeah. Yeah. Yeah. Because you  
4 would want to disengage the power source  
5 simultaneously as you are applying the brake.

6 Q So that would be part of the brake  
7 design?

8 A Yes.

9 Q And how would that be -- how would the  
10 de-clutching device be activated?

11 A Well, one of the ways would be to --  
12 through linkage. You would modify your centrifugal  
13 clutch so that it would have some kind of an  
14 activation arm sticking out, and when the brake was  
15 -- was activated, the -- the linkage would just  
16 touch this and disengage the clutch.

17 Q Okay.

18 A The -- the -- the distance of movement  
19 is very small.

20 Q The -- I want to go back to a question  
21 now about 2003 again, focusing on the year 2003.

22 What companies were manufacturing cut-off  
23 machines in 2003; do you know?

24 MR. PACKIN: It's been asked and  
25 answered also.

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1 could you date to 2003 or earlier?

2 MR. PACKIN: This was asked and  
3 answered.

4 THE WITNESS: Homelite.

5 BY MR. WALSH:

6 Q Homelite? Homelite?

7 A Yes.

8 Q And what years were the Homelite saws  
9 that you dealt with?

10 A I believe one was prior to 2000 and the  
11 other one was probably 2001 was when I dealt with  
12 it. I don't know what the year of the saws were.

13 Q Well, I'm not talking about the year  
14 you dealt with the case. I'm asking the -- the date  
15 of manufacture of the machines themselves. Do you  
16 know what they were?

17 A No.

18 Q Okay. Do you have a recollection of  
19 what warnings were on the machines?

20 A I think you just asked me that.

21 MR. PACKIN: You did.

22 BY MR. WALSH:

23 Q I did, and -- and -- and I'm -- I'm not  
24 clear on what the answer is. Did --

25 A Aren't you listening? Aren't you

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50

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1 listening? Why do you ask the questions and then  
2 you don't listen? How about listening to what I  
3 say, you know, and then not asking me the same  
4 question over and over again? You know, it would be  
5 helpful.

6 Q Mr. Growney, do you have a recollection  
7 of what warnings were on those two machines or any  
8 other machine that you think you can date to 2003 or  
9 earlier?

10 A Is this the last time you are going to  
11 ask me that question?

12 Q I'm going to have to be the judge of  
13 that. It depends on the answer.

14 MR. PACKIN: I can tell you it is.  
15 It's going to be the last time he is going to ask  
16 you that question.

17 THE WITNESS: I have no recollection.  
18 BY MR. WALSH:

19 Q Okay. Do you have records that would  
20 let you determine that?

21 A I don't, no.

22 Q Do you know what manuals -- did you see  
23 the manuals for the machine?

24 A That, I don't know.

25 Q Do you know -- do you have any

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1 recollection -- well, if you don't know, I guess you  
2 have no -- am I correct in assuming that you don't  
3 have a recollection of what may have been in any of  
4 the manuals?

5 A You're right. You know, if I can't  
6 recall whether I saw the manuals, not likely I'm  
7 going to recall what was in them.

8 Q Do you know of any cut-off machine  
9 manufacturer anywhere in the world that, in 2003,  
10 had a better warning system than Stihl?

11 MR. PACKIN: I object to the form.  
12 Also asked and answered.

13 THE WITNESS: You know, I have seen at  
14 least three versions of the yellow warning on  
15 that -- the yellow decal that is commonly -- that --  
16 that Stihl installs on its guard. I've seen at  
17 least three versions of it. And at this point I  
18 can't recall whether all of them were before 2003 or  
19 no. In addition to that, I have seen a -- a variety  
20 of pictograms on the machine, and I don't know  
21 whether they were before 2003 or not.

22 BY MR. WALSH:

23 Q Do you -- do you -- are you able to --  
24 to say that there was any cut-off machine  
25 manufacturer in the world that had a warning against

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1 the use of carbide-tipped saw blades on its machine  
2 and in its manual in 2003 other than Stihl?

3 MR. PACKIN: I object to the form.  
4 You can answer.

5 THE WITNESS: I mentioned to you the  
6 Homelites that I saw that I have no recall of what  
7 the warnings are, and I have no recall whether or  
8 not I saw manuals. Other than that, I have not had  
9 the opportunity to see any other manufacturer's  
10 warnings that were on the saw or on the manuals. So  
11 I -- I really can't answer that.

12 BY MR. WALSH:

13 Q Broadening the question, are you aware  
14 of any power tool manufacturer in 2003 that had a  
15 better warning system for its tools than Stihl?

16 MR. PACKIN: I object to the form.

17 THE WITNESS: I -- I can't answer that.  
18 You know, I -- I -- I have seen so many warnings on  
19 so many machines, power tools that -- and I cannot  
20 place them in a particular amount of time without  
21 actually going back and specifically looking at  
22 them. I -- I don't think that's a fair question for  
23 you to ask me sitting here, for me to say, in 2003,  
24 who warned better than Stihl.

25 BY MR. WALSH:

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1 Q Did you, in connection with any of the  
2 opinions voiced in your -- in your report, did you  
3 make any attempt to determine what warnings cut-off  
4 machine manufacturers were using in 2003?

5 A It makes no difference. Stihl  
6 cannot -- Stihl cannot take a position, well,  
7 everybody was doing it this way, so we'll do it this  
8 way. That's not what governs what you do. What  
9 governs what you do is you analyze the potential  
10 reasonable foreseeable misuses and you warn clearly  
11 against them. The fact that somebody else doesn't  
12 recognize them or warn them clearly is immaterial to  
13 what you do. It is not like, well, if we all don't  
14 do it, it's fine. That's not the way it goes.

15 Q Is the answer, you did not take --  
16 did -- part of your analysis of the opinions in your  
17 report did not include consideration of what other  
18 cut-off machine manufacturers were doing  
19 warning-wise; is that true or not?

20 A That's true. And just as I said, it's  
21 immaterial to what other people, how they, whether  
22 or not they want to warn about their dangers. Your  
23 obligation is to your ultimate user of your machine.  
24 You've got to make sure he gets the message, the  
25 buyer gets the message, and the ultimate user gets



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1 the message. You got to do everything reasonably  
2 possible to get that message to them.  
3 MR. PACKIN: How much time is remaining  
4 for direct questioning?  
5 VIDEO SPECIALIST: 22 minutes, 23  
6 minutes.  
7 BY MR. WALSH:  
8 Q Is it also true that, as part of the  
9 consideration that went into your -- the basis of  
10 your opinions in your report, that you did not take  
11 into consideration what other manufacturers of power  
12 tools were doing with regard to warnings in 2003?  
13 MR. PACKIN: Same objection.  
14 You can answer.  
15 THE WITNESS: No, no. No, no, no, no,  
16 no, no. I -- I have evaluated other machines, power  
17 tools prior to 2003, and I have looked at warnings  
18 that are on machines, power tools, and I've done  
19 that.  
20 BY MR. WALSH:  
21 Q Can you identify then, can you identify  
22 any of them that you say you have looked at prior to  
23 2003, that you think in 2003 or prior to that, had a  
24 better warning system for their machines than Stihl?  
25 MR. PACKIN: That's been asked and

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1 answered so don't answer it. Don't answer it.  
2 MR. WALSH: He just revised his answer.  
3 MR. PACKIN: No. Wait a minute. Don't  
4 answer it. Next question.  
5 MR. WALSH: Barry, he just revised his  
6 answer.  
7 MR. PACKIN: We're going to disagree.  
8 MR. WALSH: There is -- there is no  
9 basis for directing a witness not to answer a  
10 question unless you are claiming privilege.  
11 MR. PACKIN: 14 hours and repeat and  
12 repeat and repeat is my basis.  
13 MR. WALSH: Well, I'm telling you there  
14 is -- there is no basis. We will file a motion. We  
15 will seek sanctions.  
16 MR. PACKIN: Do what you got to do.  
17 MR. WALSH: We will. Believe me, we  
18 will. But there is no reason that that has to be  
19 done because there is simply no basis, unless you  
20 are claiming privilege, for directing a witness not  
21 to answer.  
22 MR. PACKIN: Last time. Give him the  
23 same answer you gave him last time.  
24 THE WITNESS: What's the question?  
25 MR. WALSH: Please read it back.

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1 (The court reporter read back the  
2 pending question as follows:  
3 "Question: Can you identify then, can  
4 you identify any of them that you say you  
5 have looked at prior to 2003, that you think  
6 in 2003 or prior to that, had a better  
7 warning system for their machines than  
8 Stihl?")  
9 THE WITNESS: They were all lousy.  
10 BY MR. WALSH:  
11 Q That's your answer?  
12 A Yeah.  
13 Q All right. From a -- from a standpoint  
14 of -- are you familiar with so-called rescue saws?  
15 A To a limited extent.  
16 Q Okay. What is a rescue saw? What --  
17 how do you -- what does -- what does that term mean  
18 to you?  
19 A Well, it's what fire departments use  
20 to -- to get into buildings -- that's -- during a  
21 fire emergency. And they -- most of them, as far as  
22 I know, are 12 inch. I don't know if there is a 14  
23 inch. There may be a 14-inch version. I know there  
24 is 12 inch. They run at a slower speed.  
25 Q A slower speed than what?

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1 A Than these do.  
2 Q Than hand-held gasoline-powered cut-off  
3 machines?  
4 A Yeah.  
5 Q Is a Partner cut-off machine, for  
6 example, is that used as a rescue saw?  
7 A There is a version of it, yes. I'm not  
8 exactly sure what they -- what they do to make it a  
9 rescue saw.  
10 Q Have you -- have you ever seen one  
11 that's a rescue -- that's denominated as a rescue  
12 saw?  
13 A I've seen pictures, but that's it.  
14 Q All right. Do you -- do you know  
15 whether they use carbide-tipped saw blades on the  
16 rescue saws?  
17 MR. PACKIN: Who is they?  
18 MR. WALSH: Partner, and anybody who is  
19 selling a rescue saw to fire and police departments.  
20 THE WITNESS: I'm not -- I'm not  
21 certain. My search is inconclusive.  
22 BY MR. WALSH:  
23 Q Have you made -- do you know of -- you  
24 said you think they run slower. Do you know of any  
25 other modifications made by people who are selling

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1   saws as rescue saws to -- to fire departments and  
2   others?

3               MR. PACKIN: I object to the form.  
4               THE WITNESS: Well, Partner has a kit.  
5   some kind of a kit that they -- I don't know all the  
6   ingredients in them.

7   BY MR. WALSH:  
8       Q     Do you know who makes blades for rescue  
9   saws that are sold to fire and rescue units?  
10    A     I do not.  
11    Q     Do you know how many of those blades  
12   are -- any way they can be purchased?  
13    MR. PACKIN: How many of those blades  
14   what?  
15   BY MR. WALSH:  
16    Q     Come into the country, or are in the  
17   country and available, and where they can be  
18   purchased.  
19    MR. PACKIN: I object to the form.  
20    THE WITNESS: I believe they can be  
21   purchased through distributors of fire fighting  
22   equipment.  
23   BY MR. WALSH:  
24    Q     To your knowledge, any limitation on  
25   who can go to those sources and buy them?

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1       A     No.  
2       Q     Is there any difference in those  
3   so-called rescue blades from any carbide-tipped saw  
4   blade?  
5       MR. PACKIN: Object to the form.  
6       THE WITNESS: I have not had my hands  
7   on a rescue blade, so I -- I can't tell you for  
8   certain.  
9   BY MR. WALSH:  
10    Q     Do you know what arbor sizes rescue  
11   blades are available in?  
12    A     No.  
13    Q     The -- do you know whether rescue  
14   blades were available in 2003?  
15    A     I don't know for certain.  
16    Q     Do you know -- do you know whether  
17   the -- do you know how many different outlets there  
18   are for that type of blade in the -- in the US?  
19    MR. PACKIN: I object to the form.  
20    THE WITNESS: No.  
21   BY MR. WALSH:  
22    Q     Do you -- can you get them off the  
23   internet?  
24    A     Well, I don't know if you can get the  
25   total, but, I mean, I have gone through a number of

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1   them on the internet.  
2       Q     Okay. And have you ordered any of the  
3   blades from them?  
4       A     No.  
5       Q     Have you ordered any of the machines  
6   from them?  
7       A     No.  
8       MR. WALSH: How much time you got, Jim?  
9       THE WITNESS: 17, 18 minutes.  
10    Let me take a quick break. I'll be right  
11   back.  
12           (Brief recess.)  
13   VIDEO SPECIALIST: Back on.  
14   BY MR. WALSH:  
15    Q     Mr. Growney, you are a member of the  
16   American Society of Mechanical Engineers?  
17    A     Yes.  
18    Q     What's required for membership?  
19    A     Graduate from an accredited mechanical  
20   engineering school, certain level of academic  
21   standing, recommendation.  
22    Q     No test to pass?  
23    A     No.  
24    Q     Did you ever -- do you attend meetings?  
25    A     I have in the past.

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1       Q     When was the last time you attended a  
2   meeting?  
3       A     Oh, four or five years ago.  
4       Q     Have you ever held a position of  
5   authority within the group?  
6       A     No.  
7       Q     You ever published in any of their  
8   publications?  
9       A     No.  
10    Q     You ever received any kind of honor or  
11   recognition?  
12    A     No.  
13    Q     American Society of Safety Engineers,  
14   anything required for membership there other than an  
15   application and pay your membership fee?  
16    A     I think you have to have references. I  
17   think somebody has to vouch for you, that you are --  
18   Q     I'm sorry. Were you finished?  
19    A     Vouch for your capabilities as a -- as  
20   a safety engineer.  
21    Q     You attend meetings?  
22    A     I have attended meetings representing  
23   American Society of Safety Engineers.  
24    Q     Okay. National meetings?  
25    A     No.

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1 Q Any -- ever been an officer in the  
2 organization?  
3 A No.  
4 Q Any -- ever published in their  
5 publications?  
6 A No.  
7 Q Ever received any honors or  
8 recognition?  
9 A Well, I'm recognized as their -- one of  
10 the delegates to the American ANSI O1.1.  
11 Q Anything else?  
12 A That's all I can think of.  
13 Q Human Factors and Ergonomics Society,  
14 what's required there other than application and pay  
15 a membership fee?  
16 A Have to be recommended by a -- a  
17 member.  
18 Q You go to national meetings?  
19 A Haven't yet.  
20 Q Go to any meetings?  
21 A Tried to. I tried to get the local  
22 chapter going. The relevant -- the chapter chairman  
23 wasn't interested.  
24 Q Have you been an officer in the  
25 organization?

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1 A No.  
2 Q You published in any of their  
3 publications?  
4 A No.  
5 Q Received any honors or recognition from  
6 them?  
7 A No.  
8 Q National Safety Counsel, what's  
9 required there to be a member?  
10 A National Safety Counsel only takes  
11 firms as membership. Make an application. I don't  
12 remember. It's been such a long time ago.  
13 Q You ever -- are you still a member?  
14 A Yes, I am.  
15 Q You attend any national meetings?  
16 A Well, like I said before, I represent  
17 them in ANSI committee meetings.  
18 Q Okay. How about at National Safety  
19 Counsel itself, any meetings you attend?  
20 A No.  
21 Q Ever been an officer or person of  
22 authority?  
23 A No.  
24 Q Ever published in any of their  
25 publications?

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1 A No.  
2 Q Ever received any honors or  
3 recognition?  
4 A Well, once again, I said I'm recognized  
5 by them, have been recognized as one of their  
6 representatives to the ANSI committee.  
7 MR. WALSH: David.  
8 BY MR. KOTT:  
9 Q Mr. -- Mr. Growney, are there things  
10 known as stationary cut-off saws that use or are  
11 intended to use abrasive wheels?  
12 A Yes.  
13 Q Have you ever had any involvement with  
14 those, either in litigation, work involvement or  
15 otherwise?  
16 A Yes, I had work involvement.  
17 Q And, generally, do they look like a  
18 miter saw in the sense that it has a handle that you  
19 bring the cutting attachment down to a stationary  
20 work piece?  
21 A Yes.  
22 Q At the time this Oldham blade was sold,  
23 who were the manufacturers of stationary abrasive  
24 cut-off saws that would take 14-inch cut-off  
25 attachments?

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1 MR. PACKIN: Any kind of 14-inch  
2 attachments?  
3 BY MR. KOTT:  
4 Q Yes.  
5 A Well, if I stop and think long enough,  
6 I'll remember the name.  
7 Q If I remove the 14-inch from that --  
8 A Well, yeah. Let me just -- I'm trying  
9 to remember. It is on the tip of my tongue. Go  
10 ahead. I'm sorry.  
11 Q Okay. Did Makita make a stationary  
12 abrasive cut-off saw that would take a 14-inch  
13 cutting attachment?  
14 A Oh, that's possible.  
15 Q How about Milwaukee? Did they make a  
16 stationary cut-off saw that would take a 14-inch  
17 cutting attachment?  
18 A I don't have a recollection of  
19 Milwaukee making one of those.  
20 Q Calling your attention to what we  
21 marked as Growney-64, page 133. Can you see what  
22 I'm referring to?  
23 A Yes.  
24 Q Is that a cut-off -- a stationary  
25 cut-off saw that would take an abrasive cutting

(Pages 210 to 213)

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<p style="text-align: right;">Page 214</p> <p>1 attachment?</p> <p>2 A Can I see the catalog?</p> <p>3 Q Yes.</p> <p>4 A Yes, it would take an abrasive --</p> <p>5 14-inch abrasive wheel.</p> <p>6 Q Okay. Hold that. What -- what -- what</p> <p>7 is that exhibit, please?</p> <p>8 A 64.</p> <p>9 MR. PACKIN: Can I see that for a</p> <p>10 second, that page?</p> <p>11 BY MR. KOTT:</p> <p>12 Q Okay. And do you know whether Core Cut</p> <p>13 made a stationary cut-off saw that would take a</p> <p>14 14-inch abrasive wheel?</p> <p>15 A It is possible.</p> <p>16 Q Let me call your attention to Exhibit</p> <p>17 Growney-65, page 76.</p> <p>18 Does that show some Core Cut stationary saws</p> <p>19 that would take a 14-inch abrasive wheel?</p> <p>20 A This is a -- these are a little</p> <p>21 different than what you had described.</p> <p>22 Q Okay. On these, the ones pictured on</p> <p>23 page 76, do they take a 14-inch abrasive wheel?</p> <p>24 A Yes.</p> <p>25 Q Do they have the type of guarding that</p>	<p style="text-align: right;">Page 216</p> <p>1 A Yes.</p> <p>2 Q And can I just look for one moment?</p> <p>3 The two that are shown on the right of bottom</p> <p>4 -- the right bottom of page 76, they also use</p> <p>5 14-inch cutting attachments?</p> <p>6 A The CC425M-E1 and the CC455M-H?</p> <p>7 Q Right.</p> <p>8 A Yes.</p> <p>9 Q And is it safe to use a wood-cutting</p> <p>10 blade such as the Oldham blade on that -- those two</p> <p>11 models?</p> <p>12 A Can I see the catalog?</p> <p>13 MR. PACKIN: Oh, sure, sure. That's a</p> <p>14 different page. I lost your page.</p> <p>15 BY MR. KOTT:</p> <p>16 Q 76.</p> <p>17 A Speedy Cut. Look at that. There is</p> <p>18 another name you were asking about before.</p> <p>19 What is your question, please?</p> <p>20 Q Is it safe on those models, the two at</p> <p>21 the bottom of that page, to use a wood-cutting</p> <p>22 blade?</p> <p>23 A No.</p> <p>24 Q For the same reasons, lack of adequate</p> <p>25 guarding?</p>
<p style="text-align: right;">Page 215</p> <p>1 a miter saw has?</p> <p>2 A No.</p> <p>3 Q Do you know anything about the RPMs of</p> <p>4 those saws?</p> <p>5 A I would have to look through the</p> <p>6 catalog to see what the specifications are.</p> <p>7 Q Okay. Is it safe to use a wood-cutting</p> <p>8 carbide-tipped saw blade on the cut-off machine</p> <p>9 shown on page 76?</p> <p>10 A Well, why don't we identify the model?</p> <p>11 Q Any of those models.</p> <p>12 A Well, because the CC555M-8 gas-powered</p> <p>13 saw, I don't see where it says 14 inch.</p> <p>14 Q Okay. Let's deal deep with -- how</p> <p>15 about the lower left-hand corner, is that a 14 inch?</p> <p>16 A Yes, it is. CC400M.</p> <p>17 Q Is it safe to use a wood-cutting blade</p> <p>18 such as the Oldham blade on that model?</p> <p>19 A No.</p> <p>20 Q And why is that?</p> <p>21 A The guard is not sufficient.</p> <p>22 Q And would you also need to determine</p> <p>23 the RPMs to determine whether the RPMs make it safe</p> <p>24 or unsafe to use the wood-cutting blade on that</p> <p>25 model?</p>	<p style="text-align: right;">Page 217</p> <p>1 A Yes.</p> <p>2 Q And a potential issue with the RPM?</p> <p>3 A Yes.</p> <p>4 Q Now, in that catalog on one of the</p> <p>5 pages there was a -- pictured on page 74, a Speedy</p> <p>6 Cut. Is that correct?</p> <p>7 A Yes.</p> <p>8 Q Is that a 14-inch gasoline-powered</p> <p>9 cut-off machine?</p> <p>10 A I don't know at this moment. I would</p> <p>11 have to look at the catalog.</p> <p>12 Q Okay. Can you take a look at the</p> <p>13 catalog and see whether that Speedy Cut on either</p> <p>14 page 73 or 74 will take a 14-inch cutting</p> <p>15 attachment?</p> <p>16 A Well, we got a 12 inch, a 14 inch and a</p> <p>17 16-inch.</p> <p>18 Q Thank you.</p> <p>19 A The SC7314 is the 14 inch.</p> <p>20 Q Calling your attention -- attention to</p> <p>21 Growney-63. Growney-63, page 140, that shows a</p> <p>22 cut-off saw that's a Makita; is that correct?</p> <p>23 A Let me see. Yes.</p> <p>24 Q It is a 14-inch cut-off saw that is</p> <p>25 intended to be used with an abrasive blade; is that</p>

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1 correct?  
 2 A Yes.  
 3 Q Is the guarding on that saw, the type  
 4 of guarding that you would need on a wood-cutting  
 5 saw?  
 6 A No.  
 7 Q Okay. Is it safe?  
 8 A That's a model H2157.  
 9 Q Thank you. Is it safe to use a  
 10 carbide-tipped wood-cutting blade like the Oldham  
 11 blade on that model, that Makita model?  
 12 A No.  
 13 Q Is that because of the guarding?  
 14 A Yes.  
 15 Q Is that also because of the RPMs?  
 16 A I don't know if it has the RPMs here.  
 17 Q Okay.  
 18 A It don't state the RPMs.  
 19 Q If the RPMs on all of the stationary  
 20 cut-off machines we are talking about were greater  
 21 than 5,000, would that mean it would be unsafe as  
 22 far as RPMs are concerned to use the Oldham blade on  
 23 those machines?  
 24 A Nominally, yes. Yes.  
 25 Q Calling your attention to Growney-64,

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1 which is the Milwaukee, there is a -- on page 134,  
 2 there is a model 6184-21 which is a hand-held  
 3 cut-off machine; is that correct?  
 4 A Yes, it is.  
 5 Q Does that come in a 14-inch diameter?  
 6 A Yes, it does.  
 7 Q And that is an electric machine;  
 8 correct?  
 9 A Yes.  
 10 Q Is it safe to use the Oldham blade,  
 11 carbide-tipped saw blade on that?  
 12 A No.  
 13 Q And that one is electric. Do the risk  
 14 of injury by using the Oldham blade increase as far  
 15 as it relates to electrical risks?  
 16 A Well, little difficult to say. This is  
 17 probably -- typically these machines have a  
 18 universal motor. And let me see if we have  
 19 something here. It doesn't have a maximum speed.  
 20 And so -- universal motor -- no load RPM. 4350. It  
 21 does. Okay. So we are below the speed at which it  
 22 would throw its teeth, supposedly.  
 23 Q Yeah, but I was asking about, does it  
 24 increase the risk of an electrical injury by using a  
 25 wood-cutting blade as opposed to a composite blade

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1 on it?  
 2 A I'm not sure what you are asking me, to  
 3 tell you the --  
 4 Q Yeah. There is a risk of an electrical  
 5 injury on electrical products; correct?  
 6 A Yes.  
 7 Q And that product is intended to use an  
 8 abrasive blade; correct?  
 9 A Yes.  
 10 Q If one were to use an Oldham  
 11 carbide-tipped blade, would it increase the risk of  
 12 an electrical injury?  
 13 A Oh, that's hard to say because, I mean,  
 14 you know -- okay. That's --  
 15 Q Did you do any research to determine  
 16 whether there had been injuries on stationary  
 17 cut-off machines that were -- that somebody had put  
 18 a wood-cutting blade on?  
 19 A My research did not produce any of  
 20 that. That doesn't mean it didn't occur, but it  
 21 didn't --  
 22 Q Did you look for it?  
 23 A It's possible I may have come across it  
 24 and it just didn't stick with me.  
 25 Q No. My question was, when you went and

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1 did whatever research you did, did you intentionally  
 2 do research to determine whether there had been  
 3 accidents on stationary abrasive cut-off machines  
 4 where people had used a wood-cutting blade on them?  
 5 A No.  
 6 Q Did you cut -- were you done?  
 7 A No. Yeah. But I'm just trying to  
 8 remember the manner or method in which I went about  
 9 it. I'm trying to remember whether it revealed any  
 10 and I just can't recall them. It is possible.  
 11 That's possible.  
 12 Q Is a risk of using a wood-cutting blade  
 13 on these stationary cut-off machines that there will  
 14 be a kickback?  
 15 A Is there a risk?  
 16 Q Yes.  
 17 MR. PACKIN: This has been covered.  
 18 MR. KOTT: Not on stationary cut-off  
 19 machines.  
 20 MR. PACKIN: Sure, it has by you.  
 21 MR. KOTT: When?  
 22 MR. PACKIN: Today and the last time.  
 23 MR. KOTT: Okay. You are wrong.  
 24 MR. PACKIN: Whoa, whoa, whoa, whoa.  
 25 You don't remember talking about work pieces kicking

(Pages 218 to 221)

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1 back?

2 MR. KOTT: On stationary cut-off

3 machines?

4 MR. PACKIN: Yeah, yeah, yeah.

5 MR. KOTT: On stationary cut-off

6 machines, not hand-held.

7 MR. PACKIN: Yeah.

8 MR. KOTT: That are designed for the --

9 forget it.

10 We will put a bet on the record later,

11 Mr. Packin, payable to Community Legal Services, and

12 it will be a large bet.

13 MR. PACKIN: It might be. It might not

14 be. I don't bet on anything.

15 BY MR. KOTT:

16 Q You told me that on the stationary

17 cut-off machines that we've identified, that it is

18 unsafe to use the wood-cutting blades; correct?

19 A Yes.

20 Q Is the risk of injury, a blade contact?

21 A Yes.

22 Q Is the risk of injury also that the

23 work piece being cut will be thrown?

24 A Well, typically, these are manufactured

25 -- as a matter of fact, if you look through the

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1 catalogs, you will usually see a vice. You are

2 usually provided with a vice. And so you usually

3 clamp the piece in the vice. And so, assuming that

4 you are going to use the vice and clamp it --

5 MR. KOTT: Can I see that one for a

6 moment?

7 MR. PACKIN: This?

8 MR. KOTT: Yeah.

9 BY MR. KOTT:

10 Q Calling your attention to page 73 of

11 Growney-65, that is a stationary cut-off machine

12 that takes an abrasive; is that correct?

13 A This machine appears to have a

14 carriage.

15 Q Right. But just -- just --

16 MR. PACKIN: Let him finish.

17 BY MR. KOTT:

18 Q Can we identify the machine? Is it

19 a --

20 A You are talking about this one, here?

21 Q Yeah, the lower left one, is that a

22 stationary --

23 A Let me just see if I can pick that.

24 There may be a better picture of it, because it

25 certainly appears that the -- the cutting head has a

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1 head that pivots and it has some kind of counter

2 balance spring. Apparently the operator pulls it

3 down. But also it appears as if it has a carriage

4 that you -- you rest the material to be cut on the

5 carriage and push it in. And I can't tell from the

6 picture, but if I look at the picture to the right

7 of it, you have -- it looks like you have a stop

8 that you set the piece against as opposed to a vice.

9 Q Right. And is the operator cutting a

10 brick in that photo?

11 A It looks like a brick, yeah.

12 Q Okay. Is one of the risks of using the

13 carbide-tipped saw blades on that machine or on

14 these machines and cutting concrete or brick, that

15 the tips will break off and hit somebody?

16 A If you were using carbide-tipped

17 blades?

18 Q Yeah.

19 A Sure.

20 Q Did Grizzley at the time that this

21 blade was sold to Jingoli, did Grizzley make 14-inch

22 blades, carbide-tipped saw blades?

23 A I think Grizzley is a -- a retailer. So

24 I -- I don't think they made it. They probably

25 had -- it could be a private label or they could be

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1 reselling somebody else's.

2 Q Right. I will tell you where I got

3 that from. Calling your attention to exhibit --

4 MR. PACKIN: You are out of time so

5 this will be the last question.

6 MR. KOTT: There is no more time left?

7 MR. PACKIN: Nope.

8 MR. KOTT: Is that right? Okay.

9 BY MR. KOTT:

10 Q Calling your attention to Growney-63 --

11 you know what, let me ask you a different question.

12 The Amana blade you talked about that had in

13 some place, either on the internet or someplace

14 else, the pictorial, do you know when Amana put that

15 on, the pictorial on?

16 A Not without trying to find a copyright

17 date on something.

18 Q Okay. That's what you need to do to do

19 that?

20 A Yeah.

21 MR. KOTT: Okay. Thank you.

22 BY MR. PACKIN:

23 Q I just have a couple. Mr. Growney, in

24 Growney-65, the diamond products equipment catalog

25 that was marked on page 74, they show a power tool;

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1 correct?  
 2 A Page 74, you said?  
 3 Q Yes.  
 4 A Yes.  
 5 Q And is that what defense counsel has  
 6 been describing as a gasoline-powered, hand-held  
 7 portable cut-off machine?  
 8 A Yes.  
 9 Q What -- the model that's listed on  
 10 page 75 as SC7314, is that the 14-inch tool?  
 11 A SC7314 is the 14-inch; correct.  
 12 Q And that's the machine you told  
 13 Mr. Kott is designed to be used with abrasive wheels  
 14 or diamond wheels, not carbide-tipped blades;  
 15 correct?  
 16 A Correct.  
 17 Q In its catalog, does Speedy Cut call  
 18 that cut-off machine or cut-off saw?  
 19 A Speedy Cut calls it a cut-off saws --  
 20 cut-off saw.  
 21 Q And it is a 21-pound tool; is that  
 22 correct?  
 23 A Yes, it is.  
 24 Q And it has an arbor -- it will accept  
 25 blades with one-inch or 20-millimeter diameters;

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1 true?  
 2 A Yes. Either one.  
 3 Q And under accessories, what's the first  
 4 listed accessory item that's made available for sale  
 5 with that machine?  
 6 A 20-millimeter to one-inch arbor  
 7 adopter. The thing we have been calling a bushing.  
 8 Q Was, in your opinion, was Mr. McGee's  
 9 use -- was his use of the TS400 to cut HDPE plastic  
 10 pipe a reasonably foreseeable purpose to use that  
 11 tool for?  
 12 MR. WALSH: Object to form.  
 13 THE WITNESS: Yes, it was.  
 14 BY MR. PACKIN:  
 15 Q And what do you base that on?  
 16 A Well, first off, these machines can cut  
 17 and have been used to cut concrete pipe, cast iron  
 18 pipe, and so now you have a pipe that isn't -- is  
 19 made of a material that is not as -- as tough as  
 20 concrete or cast iron, steel. And so it certainly  
 21 is reasonable that a person who uses one of these  
 22 saws could say, well, I got something that's easier  
 23 than concrete or easier than cast iron or steel, so  
 24 there's no reason why I can't cut that. It is an  
 25 easier job.

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1 Q Is HDPE plastic pipe a type of material  
 2 that in your experience is found on construction  
 3 sites?  
 4 A Yes.  
 5 Q Is using the TS400 -- was Mr. McGee's  
 6 use of the TS400 to cut this HDPE pipe with a  
 7 14-inch carbide-tipped saw blade on it, in your  
 8 opinion, a reasonable foreseeable manner in which he  
 9 used it?  
 10 MR. KOTT: Object to the form.  
 11 MR. WALSH: Object to the form.  
 12 THE WITNESS: Yes.  
 13 BY MR. PACKIN:  
 14 Q And what would you base that on?  
 15 A Well, a -- there is a couple of things.  
 16 One is that a reasonable engineering designer would,  
 17 once he's made his design, do an analysis for the  
 18 reasonably foreseeable uses or the manner in which  
 19 it is used, his product would be used. And if he  
 20 had done -- if a -- if a reasonable engineer had  
 21 done such a reasonable engineering analysis for its  
 22 intended use, he would have seen that there are  
 23 misuses which are reasonably foreseeable.  
 24 The other thing was that there has been  
 25 experience in the field that this has been -- this

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1 has been done over, and over, and over again. So  
 2 the -- the analysis would have to take into effect  
 3 what he was cutting and the way he was going about  
 4 it.  
 5 Q In your report, did you, in fact,  
 6 criticize the wording of the warning on the Oldham  
 7 blade?  
 8 MR. KOTT: I object to the form.  
 9 THE WITNESS: Yes, I did.  
 10 BY MR. PACKIN:  
 11 Q When you were questioned on June 15th,  
 12 I think, but I'm not correct -- I'm not clear in my  
 13 recollection because it was a while ago, that you  
 14 testified that you did not know of any manufacturers  
 15 of carbide-tipped saw blades who included a  
 16 pictorial on the blade such as the one or similar to  
 17 the one you've proposed in this case. Is that  
 18 correct?  
 19 MR. KOTT: I object to the form.  
 20 THE WITNESS: No. That's not correct.  
 21 Amana, AEG Amana used that pictorial.  
 22 BY MR. PACKIN:  
 23 Q Was that in your discussion with  
 24 Mr. Kott earlier today?  
 25 A Yes, yes, yes. That's the type of

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1 pictorial that's appropriate.  
 2 MR. KOTT: Are you saying they used it  
 3 on the blade?  
 4 MR. PACKIN: His testimony is what it  
 5 was earlier. That's why I referred to it.  
 6 MR. KOTT: Well, his testimony was  
 7 earlier --  
 8 MR. PACKIN: Don't interrupt me while  
 9 I'm questioning. You can do whatever you want when  
 10 it is your turn.  
 11 MR. KOTT: Okay.  
 12 BY MR. PACKIN:  
 13 Q Also, I'm not sure if I heard you  
 14 testify correctly on the 15th of June. I thought  
 15 you said you don't know what warnings were on the  
 16 accident saw blade; is that correct?  
 17 MR. KOTT: I object to the form.  
 18 THE WITNESS: Well, by that I mean that  
 19 I didn't see the accident saw blade. In other  
 20 words, the one that actually was involved in the  
 21 accident. So I don't really know what was on it.  
 22 I've seen exemplars.  
 23 BY MR. PACKIN:  
 24 Q So would it be fair to say you know  
 25 what was on it when it was originally manufactured?

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1 MR. KOTT: I object to the form.  
 2 THE WITNESS: Yes. What should have  
 3 been on it.  
 4 BY MR. PACKIN:  
 5 Q And is that what's cited in paragraph  
 6 6.145 in your report where you quote it?  
 7 MR. KOTT: I object to the form.  
 8 THE WITNESS: Yes.  
 9 BY MR. PACKIN:  
 10 Q Is the blade -- is the model and  
 11 vintage of blade that was involved in Mr. McGee's  
 12 accident, the same model and vintage that was  
 13 involved in Kyle Stout's accident?  
 14 A Yes.  
 15 Q What did you mean on June 15th when you  
 16 said that you skimmed some of the deposition  
 17 transcripts that were sent to you?  
 18 A Well, what I meant was that, a lot of  
 19 times in deposition there is a lot of extraneous  
 20 information that is not relevant to whatever we are  
 21 looking for. And so I would go down through the --  
 22 through the transcript and look for things that I  
 23 was -- I would scan it and look for things that were  
 24 of concern on my part. And then when I found one, I  
 25 might stay there and read it for comprehension, find

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1 out whether it supported anything or not. And then  
 2 move on.  
 3 Q You testified on June 15th regarding  
 4 your own lawn mower and other tools that you own  
 5 that you don't read the warnings that are on those  
 6 tools each time you use them. Do you remember that  
 7 testimony?  
 8 MR. WALSH: Object to the form.  
 9 THE WITNESS: Yes, I do.  
 10 BY MR. PACKIN:  
 11 Q What did you mean by that when you said  
 12 you don't read them each time you use them?  
 13 MR. WALSH: I object to the form.  
 14 MR. KOTT: I object to the form.  
 15 THE WITNESS: Well, by that I mean,  
 16 I've read them, you know. But I don't read them  
 17 every time I go to use the machine. I don't sit  
 18 there and read this one, and read this one, and read  
 19 this one. I mean, after a while, you know, through  
 20 that repetition, I'm going to understand what the  
 21 heck they are talking about. But they are  
 22 positioned or placed in a manner where I see the  
 23 pictograms, the pictorials that accompany the text,  
 24 the warning text. So the observance of the  
 25 pictorial reminds me, serves to remind me, it does

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1 remind me of the text on it.  
 2 BY MR. PACKIN:  
 3 Q Does observing the pictorial require  
 4 the conscious act of reading?  
 5 MR. WALSH: I object to form.  
 6 MR. KOTT: I object to form.  
 7 THE WITNESS: No, it does not.  
 8 BY MR. PACKIN:  
 9 Q Are you familiar with the engineering  
 10 principles that go into the design of a cut-off saw?  
 11 A Well, yes. The engineering principles  
 12 are engineering principles, and they just are  
 13 adapted to various different things.  
 14 Q Were there any engineering principles  
 15 that you encountered in your analysis in this case  
 16 with which you were unfamiliar?  
 17 A No.  
 18 Q From an engineering standpoint, do you  
 19 have to have designed a particular piece of  
 20 equipment to understand the engineering principles  
 21 and design criteria for that equipment?  
 22 MR. WALSH: I object to the form.  
 23 THE WITNESS: No. No. If you are a --  
 24 a trained engineer and you understand the  
 25 engineering principles, no, you don't have to.

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1 BY MR. PACKIN:

2 Q In ANSI B175, you were asked some  
3 questions about a list -- I'm sorry. B7.5, 1990,  
4 you were asked some questions about -- and it might  
5 have been the other one, as well -- about a list of  
6 hazards to be warned against.

7 A Yes.

8 Q In your understanding, is that list  
9 presented in any type of hierarchy or order?

10 MR. WALSH: I object to the form.

11 MR. KOTT: I object to the form.

12 THE WITNESS: No, it absolutely is not.

13 There is -- there is nothing that indicates the  
14 first one is the most severe and then the -- the  
15 greater degree of severity decreases as you go down  
16 the list. There is absolutely nothing that says  
17 that. This is just a compilation of hazards.

18 BY MR. PACKIN:

19 Q From your looking at that list, are  
20 there some hazards that occur more frequently than  
21 others?

22 MR. WALSH: I object to the form.

23 THE WITNESS: Yes, I believe so, yeah.

24 BY MR. PACKIN:

25 Q Are there some that have potentially

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1 look at to determine if that's the case?

2 A Go back on the website. It is on the  
3 website.

4 Q Well, would the website tell you  
5 whether the warning is actually on the blade itself?

6 A I don't know.

7 Q Okay. Did you ever buy that blade to  
8 see whether it was actually on the blade?

9 A No, I did not.

10 Q Why didn't you buy the blade?

11 A It didn't occur to me.

12 Q Is there any reason -- withdrawn.

13 would you be able to buy that blade and bring  
14 it to the courthouse and show the jury the  
15 on-product warning if it is there?

16 A If -- if Mr. Packin wants me to do  
17 that, I -- I could.

18 MR. KOTT: Okay. No further questions.

19 BY MR. WALSH:

20 Q Mr. Packin made reference to ANSI  
21 standards B7.5 1991 and what he referred to as the  
22 other one, which I think he intended to be 175 2006  
23 and the list of warnings. You recall him asking you  
24 about that?

25 A Yes.

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1 more severe consequences than others?

2 MR. WALSH: Object to the form.

3 THE WITNESS: Yes.

4 MR. PACKIN: I don't have anything  
5 else.

6 MR. KOTT: I do, but you first?

7 BY MR. KOTT:

8 Q With respect to the Amana blade, did  
9 you also call it an AGE? I don't remember.

10 A I can't remember if it's AEG or AGE.

11 Q Is AEG the same thing as Amana?

12 A There is some kind of business  
13 connection, and I don't -- I don't know exactly what  
14 it is.

15 Q On either the Amana or the AGE, are you  
16 able to state that it actually has an on-product  
17 pictorial not to use the blade on a cut-off machine?

18 MR. PACKIN: On-product, meaning the  
19 blade?

20 BY MR. KOTT:

21 Q Yeah.

22 A That's what I thought, although, you  
23 know, sitting here right now, I -- I don't have a  
24 clear recollection of it.

25 Q Okay. Is there something you could

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1 Q You have never sat on an ANSI committee  
2 that had either the B7.5 or the B175 committee, have  
3 you?

4 A Have I sat on the ANSI B175 committee?

5 Q Yes. Or the B7.5 committee.

6 A No.

7 Q Have you ever made -- have you ever  
8 been part of the group that is asked to comment on  
9 either of those standards?

10 A No.

11 Q Have you ever made a comment on either  
12 of those standards to the -- to the sponsors or to  
13 ANSI itself?

14 A No.

15 Q Have you ever talked to anybody on the  
16 committee about what their -- what their intent was  
17 in the list of hazards they provided in the  
18 warnings?

19 A No.

20 Q Have you ever talked to a -- a  
21 manufacturer about the intent -- anybody -- anybody  
22 on either the technical committee or the canvas  
23 committee for either of those standards about what  
24 the intent was with regard -- whether it was  
25 hierarchal or not?

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1 A No. Based on my experience on ANSI  
2 committees, I know that on an ANSI committee, that  
3 if you intend something to be hierarchal, you write  
4 it out. In the ANSI committees that I have sat on,  
5 we have lists of hazards and they are not  
6 necessarily hierarchal.

7 Q What ANSI committees have you sat on  
8 that has a list of hazards?

9 A I sat on ANSI O1.1. I sat on ANSI B65  
10 177.1. And ANSI B65 177.2. All of those standards  
11 we have laid out warnings requirements, and we have  
12 listed out and we have listed various dangers. We  
13 have not at any one of those standards identified a  
14 hierarchy.

15 Q Is it your testimony that in the three  
16 standards you just identified, that there is a  
17 listing in them of -- of a standard -- of warnings  
18 to go on machines?

19 A There are some -- we had a discussion  
20 on this.

21 I'm sorry. I would have to refer to them  
22 right now. I can't -- I can't recall. It may be  
23 because it is late in the day.

24 Q We can agree that the standards in the  
25 -- in the cut-off machine standard are a list of

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1 hazards that must go on the machine; correct?

2 A Yes.

3 MR. WALSH: All right. I don't have  
4 any further questions.

5 MR. PACKIN: Okay. Go to my office.

6 On these documents here, if you guys want  
7 complete copies, meaning these catalogs and the  
8 notebook, you are going to have to give me some  
9 affirmative written thing that you want them and  
10 that you will pay for the copying of them. If you  
11 don't want them, tell me that, too, and I will  
12 return them to --

13 MR. WALSH: We want them and we will  
14 pay you for them.

15 MR. KOTT: Same here. What do you want  
16 with the catalogs?

17 MR. RUDOLPH: Do you want copies of the  
18 whole catalogs, as well?

19 MR. KOTT: I want them, as well.

20 In addition, Mr. Packin, in my letter to you,  
21 two letters, I had asked Mr. Gowney to produce the  
22 warnings articles that he read since -- since his  
23 last deposition of McGee. He produced a number of  
24 Timothy Rhoades articles where Rhoades was the  
25 author or coauthor, but not the others.

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1 MR. PACKIN: Yes, he did. The notebook  
2 -- I pointed out that there are other articles in  
3 there that are not authored or coauthored by  
4 Rhoades.

5 MR. KOTT: My impression from what he  
6 said in the deposition was that there were others  
7 that he reviewed that were not in that notebook.

8 MR. PACKIN: I didn't get that  
9 impression, but I will check with him.

10 MR. KOTT: I would like to know from  
11 you what the witness says the size of the lettering  
12 was on the Oldham blade.

13 MR. PACKIN: Whatever you want, put it  
14 in a letter.

15 MR. KOTT: I'm going to put it here and  
16 then I'll put it in a letter.

17 I would also like to know where -- whether he  
18 contends the size of the lettering violated the ANSI  
19 standard, the chart that I went through with him on  
20 ANSI Z535 2000, 535.4 2002, the charts in the  
21 appendix.

22 MR. PACKIN: I'm not being rude. Just  
23 put whatever you want on the record and then put it  
24 in a letter to me.

25 MR. KOTT: I would like to know where

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1 he says that the warning was on the Amana or AGE  
2 product, meaning was it in the packaging, was it on  
3 the blade, or was it on the website, or was it  
4 somewhere else.

5 I would like to know when the Amana warning,  
6 according to this witness, was put on there, and by  
7 that, I'm referring to the pictorial.

8 That's it.

9 \*\*\*\*\*



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C E R T I F I C A T I O N

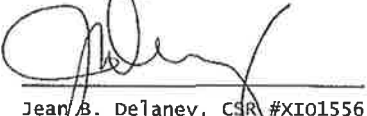
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I, Jean B. Delaney, a Certified Shorthand Reporter and Notary Public of the State of New Jersey, do hereby certify that I reported the deposition in the above-captioned matter; that the said witness was duly sworn by me; that the reading and signing of the deposition were waived by said witness and by counsel for the respective parties; that the foregoing is a true and correct transcript of the stenographic notes of testimony taken by me in the above-captioned matter.

I further certify that I am not an attorney or counsel for any of the parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action.



Jean B. Delaney, CSR #XI01556

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Dated: September 1, 2010

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